

**LEWISTON CITY COUNCIL AGENDA  
CITY COUNCIL CHAMBERS  
MAY 3, 2016**

**6:00 p.m. Executive Session**

- ES-1 To discuss labor union negotiations regarding the city's six employee unions.
- ES-2 To discuss Acquisition of Property of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

**7:00 p.m. Regular Meeting**

Pledge of Allegiance to the Flag.  
Moment of Silence.

Presentation - Recognition of City's Employee Wellness Team  
Presentation - Recognition of Lewiston student who is listed in the 2016 Young Maine Roll of Honor  
Presentation - Lewiston Firefighter's Association Scholarship presentation

Update from the Lewiston Youth Advisory Council

Public Comment period - Any member of the public may make comments regarding issues pertaining to Lewiston City Government (maximum time limit is 15 minutes for all comments)

ALL ROLL CALL VOTES FOR THIS MEETING WILL BEGIN WITH THE COUNCILOR OF WARD 2.

**CONSENT AGENDA:** All items with an asterisk (\*) are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council member or a citizen so requests, in which event, the item will be removed from the Consent Agenda and considered in its normal sequence on the Agenda.

- \* 1. Authorization to accept transfer of forfeiture funds.
- \* 2. Order Authorizing executive of a Municipal Quitclaim Deed for Real Estate located at 15 Shore Road.
- \* 3. Resolve Accepting a US Lacrosse Soft Stick Equipment Grant for the purpose of supporting the Lewiston Recreation Kiddiesticks Instructional Program for Pre-K to Grade 2.

**REGULAR BUSINESS:**

- 4. Public Hearing on a new liquor license application for Forage Market, 180 Lisbon Street.
- 5. Public Hearing regarding the proposed New Comprehensive Plan entitled Legacy Lewiston.
- 6. Public Hearing and First Passage regarding an amendment of the Animal and Animal Control ordinance and an amendment to the Land Use Code regarding the keeping of chickens in residential zoning districts.
- 7. Public Hearing and First Passage regarding an amendment to the Animal and Animal Control ordinance allowing animals in city parks and fields during approved Special Events.
- 8. Resolve Approving Final Adjustments to the Fiscal Year 2017 Water, Sewer, Storm Water and Recreation Activities Budgets.

9. Resolve Making an Appropriation for Municipal Budget Year 2017.
10. Public Hearing on the Adoption of the Resolve regarding the FY2016 Community Development Block Grant Action Plan Budget for submittal to the U.S. Department of Housing and Urban Development.
11. Resolve Approving the Federal FY2016 Community Development Block Grant (CDBG) Action Plan Budget for submittal to the U.S. Department of Housing and Urban Development(HUD).
12. Resolve Waiving various local fees otherwise applicable to construction of a New Elementary School in Franklin Pasture.
13. Order taking possession of Tax Acquired Property at 117 Webster Street.
14. Resolve Ratifying the conclusion of the City Clerk that the Application to circulate petitions for an Initiative or Referendum regarding Agreement with Brookfield White Pine of Canada for Acquisition or Exchange of Canal is not a permissible subject for a citizen initiative referendum and, therefore, that the City Clerk cannot issue a proper petition.
15. Update from the Lewiston School Committee Representative.
16. Reports and Updates.
17. Any other City Business Councilors or others may have relating to Lewiston City Government

**LEWISTON CITY COUNCIL**  
**MEETING OF MAY 3, 2016**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. ES-1**

**SUBJECT:**

Executive Session to discuss labor union negotiations regarding the city's six employee unions.

**INFORMATION:**

The Maine State Statutes, Title 1, section 405, define the permissible grounds and subject matters of executive sessions for public meetings.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*ERB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To enter into an Executive Session pursuant to MRSA Title 1, Section 405 (6) (D) to discuss Labor Negotiations regarding the city's six employee unions - International Association of Firefighters, Local 785; Maine State Employees Association, Local 1989; Maine Association of Police; Lewiston Police Supervisory Command Unit; Lewiston Professional Technical Unit, Local 3855 and Lewiston Public Works Unit, Local 1458.

**LEWISTON CITY COUNCIL**  
**MEETING OF MAY 3, 2016**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. ES-2**

**SUBJECT:**

Executive Session to discuss Acquisition of Property of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

**INFORMATION:**

The Maine State Statutes, Title 1, section 405, define the permissible grounds and subject matters of executive sessions for public meetings.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*ETB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To enter into an Executive Session, pursuant to MRSA Title 1, section 405(6)(c), to discuss Acquisition of Property, of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

**LEWISTON CITY COUNCIL**  
**MEETING OF MAY 3, 2016**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 1**

**SUBJECT:**

Authorization to accept transfer of forfeiture funds.

**INFORMATION:**

The Lewiston Police Department is requesting that the City Council authorize the acceptance of funds, in the amounts outlined below, as reimbursement for costs associated with assisting in a criminal investigation. The funds are available to the Lewiston Police Department due to its substantial contribution to the investigation of this or a related criminal case.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*EAB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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That pursuant to Title 15, Maine Revised Statutes Annotated, Section 5824(3) and Section 5822(4)(A), the City Council hereby acknowledges and approves of the transfer of \$606.00, or any portion thereof, in the case of the State of Maine vs. Carlos Oviedo, CR-15-2251 Court Records, being funds forfeited pursuant to the court process. It is further acknowledged that these funds shall be credited to the 'City of Lewiston Drug Enforcement Program' account.

STATE OF MAINE  
Androscoggin, ss

SUPERIOR COURT  
Criminal Action  
Docket No. CR-15-2251

State of Maine	}	
	}	
v.	}	Municipality of Lewiston
	}	Approval of Transfer
Carlos Oviedo	}	15 M.R.S.A. §5824(3) & §5822(4)(A)
Defendant;	}	
	}	
And	}	
	}	
\$606.00 U.S. Currency	}	
Defendant(s) In Rem	}	

NOW COMES the municipality of Lewiston, Maine, by and through its municipal officers, and does hereby grant approval pursuant to 15 M.R.S.A. § 5824(3) & §5826(6) to the transfer of the above captioned Defendant(s) in Rem, or any portion thereof, on the grounds that the Lewiston Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the municipality of Lewiston, Maine does hereby approve of the transfer of the Defendant(s) In Rem, or any portion thereof, pursuant to 15 M.R.S.A. § 5824(3) & §5826(6) by vote of the Lewiston municipal legislative body on or about

Dated: \_\_\_\_\_

\_\_\_\_\_  
Municipal Officer  
Lewiston, Maine  
(Impress municipal legislative body seal here)

**LEWISTON CITY COUNCIL**  
**MEETING OF MAY 3, 2016**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 2**

**SUBJECT:**

Order Authorizing execution of a Municipal Quitclaim Deed for Real Estate located at 15 Shore Road.

**INFORMATION:**

The Council is asked to approve a municipal quitclaim deed for the property located at 15 Shore Road. The quitclaim deed will release any interest the City may have by virtue of undischarged real estate tax liens or utility liens on this property.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*EAB/Kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To approve the Order authorizing execution of a municipal quitclaim deed for real estate located at 15 Shore Road.



**COUNCIL ORDER**

**Order,** Authorizing Execution of a Municipal Quitclaim Deed – Real Estate Located at 15 Shore Road.

**WHEREAS,** the owners, Deedra & Victoria T. Langelier, failed to pay their tax bill on a timely basis for 15 Shore Road (Tax Map 34, Lot 24, Parcel 00-013848); and

**WHEREAS,** a tax lien was filed on June 13, 2012 (Book 8417 Page 236) and matured on December 13, 2013 in the amount of \$334.66; and

**WHEREAS,** payment was received in full;

**NOW, THEREFORE, BE IT ORDERED by the CITY COUNCIL of the CITY of LEWISTON,**

That a quitclaim deed is hereby authorized to release the City's interest in the property located at 15 Shore Road to the owner.

**LEWISTON CITY COUNCIL**  
**MEETING OF MAY 3, 2016**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 3**

**SUBJECT:**

Resolve Accepting a US Lacrosse Soft Stick Equipment Grant for the purpose of supporting the Lewiston Recreation Kiddiesticks Instructional Program for Pre-K to Grade 2.

**INFORMATION:**

The City's Recreation Division has been awarded a grant from US Lacrosse for equipment for the program. The City Council is asked to approve acceptance of the grant funds.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*ERAB/Kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To approve the Resolve accepting a US Lacrosse Soft Stick Equipment Grant for the purpose of supporting the Lewiston Recreation Kiddiesticks Instructional Program for Pre-K to Grade 2.



**COUNCIL RESOLVE**

**Resolve,** Accepting a US Lacrosse Soft Stick Equipment Grant for the Purpose of supporting the Lewiston Recreation Kiddiesticks Instructional Program for Pre-K to Grade 2.

Whereas, US Lacrosse has awarded a grant to the Recreation Division to supply 30 soft lacrosse sticks, 30 soft lacrosse balls, one copy of the US Lacrosse Physical Education Curriculum Guide and Reproducible Packet, and one copy of the US Lacrosse Teaching Soft-Stick Lacrosse DVD, a video-based workshop for PE Teachers and recreational program leaders; and

Whereas, this Grant will support the instructional format for the Kiddiesticks program within the Lewiston Recreation Division Lacrosse Program; and

Whereas, US Lacrosse is the national governing body of lacrosse that, through responsive and effective leadership, provides programs and services to inspire participation in the sport while protecting its integrity;

**Now, therefore, be it Resolved by the City Council of the City of Lewiston that**

The City Administrator is hereby authorized to accept a grant from US Lacrosse for the purpose of providing lacrosse equipment and teaching materials for the Kiddiesticks Instructional program.

**Be it Further Resolved, that**

the City Council expresses its thanks and appreciation to US Lacrosse for their contribution to the Lewiston Recreation Division.



# LEWISTON CITY COUNCIL

## MEETING OF MAY 3, 2016

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 4**

**SUBJECT:**

Public Hearing on a new liquor license application for Forage Market, 180 Lisbon Street.

**INFORMATION:**

We have received an application for a liquor license for Forage Market, 180 Lisbon Street. The liquor license application is for malt & vinous.

The police department has reviewed and approved the application.

The business owner has been notified of the public hearing and requested to attend.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*EHAS/KMM*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To authorize the City Clerk's Office to approve a new liquor license application for Forage Market, 180 Lisbon Street.

BUREAU OF ALCOHOLIC BEVERAGES  
 DIVISION OF LIQUOR LICENSING & ENFORCEMENT  
 164 STATE HOUSE STATION  
 AUGUSTA, ME 04333-0164



DEPARTMENT USE ONLY

Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded.

To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

LICENSE NUMBER: \_\_\_\_\_ CLASS: \_\_\_\_\_

DEPOSIT DATE \_\_\_\_\_

AMT. DEPOSITED: \_\_\_\_\_ BY: \_\_\_\_\_

CK/MO/CASH: \_\_\_\_\_

PRESENT LICENSE EXPIRES \_\_\_\_\_

INDICATE TYPE OF PRIVILEGE:  MALT  SPIRITUOUS  VINOUS

INDICATE TYPE OF LICENSE:

- RESTAURANT (Class I,II,III,IV)
- HOTEL-OPTINONAL FOOD (Class I-A)
- CLASS A LOUNGE (Class X)
- CLUB (Class V)
- TAVERN (Class IV)

- RESTAURANT/LOUNGE (Class XI)
- HOTEL (Class I,II,III,IV)
- CLUB-ON PREMISE CATERING (Class I)
- GOLF CLUB (Class I,II,III,IV)
- OTHER: \_\_\_\_\_

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) —(Sole Proprietor, Corporation, Limited Liability Co., etc.) <i>Forage Market, INC</i> DOB: <i>10/16/11</i>		2. Business Name (D/B/A) <i>Forage Market</i>	
DOB: _____		Location (Street Address) <i>180 Lisbon St.</i>	
Address <i>180 Lisbon St.</i>		City/Town <i>Lewiston</i> State <i>ME</i> Zip Code <i>04240</i>	Mailing Address <i>same</i>
City/Town <i>Lewiston</i> State <i>ME</i> Zip Code <i>04240</i>	City/Town _____ State _____ Zip Code _____	City/Town _____ State _____ Zip Code _____	City/Town _____ State _____ Zip Code _____
Telephone Number <i>(207) 333-6840</i> Fax Number _____	Business Telephone Number <i>same</i> Fax Number <i>none</i>	Business Telephone Number _____ Fax Number _____	Business Telephone Number _____ Fax Number _____
Federal I.D. # <i>45-3027522</i>	Seller Certificate # <i>1156001</i>	Seller Certificate # _____	Seller Certificate # _____

3. If premises is a hotel, indicate number of rooms available for transient guests: \_\_\_\_\_
  4. State amount of gross income from period of last license: ROOMS \$ \_\_\_\_\_ FOOD \$ \_\_\_\_\_ LIQUOR \$ \_\_\_\_\_
  5. Is applicant a corporation, limited liability company or limited partnership? YES  NO
- If YES, complete Supplementary Questionnaire
6. Do you permit dancing or entertainment on the licensed premises? YES  NO
  7. If manager is to be employed, give name: \_\_\_\_\_
  8. If business is NEW or under new ownership, indicate starting date: *New 5-25-16*  
 Requested inspection date: *5-18-16* Business hours: *7-6 weekdays*
  9. Business records are located at: \_\_\_\_\_

11. Is/are applicant(s) residents of the State of Maine? YES  NO

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:  
Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
William Allen Smith	9/6/68	Cincinnati

Residence address on all of the above for previous 5 years (Limit answer to city & state)  
Greene, Maine

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES  NO

Name: \_\_\_\_\_ Date of Conviction: \_\_\_\_\_

Offense: \_\_\_\_\_ Location: \_\_\_\_\_

Disposition: \_\_\_\_\_

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?  
Yes  No  If Yes, give name: \_\_\_\_\_

15. Has/have applicant(s) formerly held a Maine liquor license? YES  NO

16. Does/do applicant(s) own the premises? Yes  No  If No give name and address of owner: \_\_\_\_\_

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) First floor retail  
all one open space. 30' x 90' seating areas are approx. 1500 sq. ft.

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?  
YES  NO  Applied for: Licensed by City of Lewiston and Department of Agriculture  
will change to DMS license.

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? \_\_\_\_\_ Which of the above is nearest? \_\_\_\_\_

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES  NO   
If YES, give details: No

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: Lewiston, Maine on 4/14/16, 20\_\_\_\_  
Town/City, State Date

William Allen Smith, President  
Signature of Applicant or Corporate Officer(s)  
William Allen Smith  
Print Name

Please sign in blue ink  
\_\_\_\_\_  
Signature of Applicant or Corporate Officer(s)  
\_\_\_\_\_  
Print Name

# MAINE DEPT OF PUBLIC SAFETY

STATE OF MAINE  
Liquor Licensing & Inspection Division  
164 State House Station  
Augusta ME 04333-0164  
Tel: (207) 624-7220 Fax: (207) 287-3424



## SUPPLEMENTARY QUESTIONNAIRE FOR CORPORATE APPLICANTS, LIMITED LIABILITY COMPANIES, AND LIMITED PARTNERSHIPS

- Exact Corporate Name: Forage Market, Inc  
Business D/B/A Name: Forage Market
- Date of Incorporation: 10/10/11
- State in which you are incorporated: Maine
- If not a Maine Corporation, date corporation was authorized to transact business within the State of Maine: \_\_\_\_\_
- List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percent of stock owned:

Name	<i>Print Clearly</i> Address Previous 5 years	Birth Date	% of Stock	Title
William Allen Smith	151 Saunders Rd Greene, Maine	9/6/68	100	President Treasurer

- What is the amount of authorized stock? 100 shares Outstanding Stock? 100 shares
- Is any principal officer of the corporation a law enforcement official? Yes  No
- Has applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of the United States? Yes  No
- If YES, please complete the following: Name: \_\_\_\_\_

Date of Conviction: \_\_\_\_\_ Offense: \_\_\_\_\_

Location: \_\_\_\_\_ Disposition: \_\_\_\_\_

Dated at: \_\_\_\_\_ On: \_\_\_\_\_  
City/Town Date

W.A.S. President  
Signature of Duly Authorized Officer

4/14/16  
Date

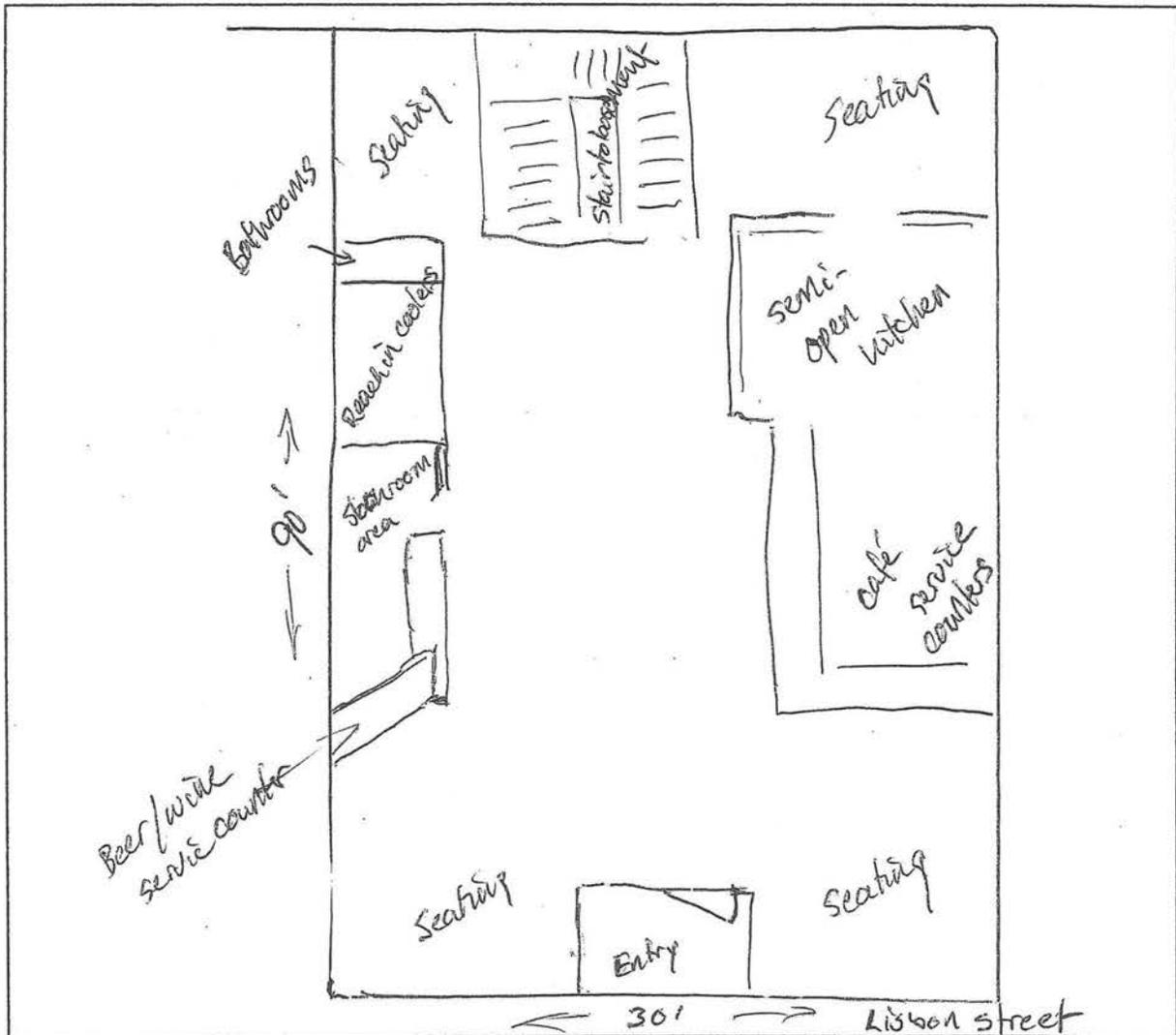
William Allen Smith, President  
Print Name of Duly Authorized Officer



## SUPPLEMENTAL APPLICATION FORM ON-PREMISE DIAGRAM

In an effort to clearly define your licensed premise and the areas that consumption and storage of liquor is allowed, The Bureau of Liquor Enforcement is requiring all applicants to submit a diagram of the premise to be licensed in addition to a completed license application.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the areas of your diagram including entrances, office area, kitchen, storage areas, dining rooms, lounges, function rooms, decks and all areas that you are requesting approval from the Bureau for liquor consumption.



OFFICES LOCATED AT: 397 WATER STREET GARDINER, MAINE 04345

(207) 624-8745 (Voice)

(207) 624-4478 (TDD)

(207) 624-8767 (Fax)



## ***POLICE DEPARTMENT***

Michael J. Bussiere  
Chief of Police



TO: Kelly Brooks, Deputy City Clerk

FR: Lt. Adam D. Higgins, Support Services

DT: April 19, 2016

RE: Liquor License/Special Amusement Permit – **Forage Market**

We have reviewed Liquor License/Special Amusement Permit Application and have no objections to the following establishment;

**Forage Market**  
**180 Lisbon St.**



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171 Park St • Lewiston, Maine • 04240 • Phone 207-513-3137 • Fax 207-795-9007  
[www.lewistonpd.org](http://www.lewistonpd.org)



*Professionalism*

*Integrity*

*Compassion*

*Dedication*

*Pride*

*Dependability*

CITY OF LEWISTON

PUBLIC NOTICE

A hearing on the following liquor license application will be held by the Lewiston City Council in the Council Chambers, City Hall on **Tuesday, May 3, 2016, at 7:00 p.m.**, or as soon thereafter as they may be heard. Any interested person may appear and will be given the opportunity to be heard before final action on said application.

Forage Market  
180 Lisbon Street  
William Allen Smith, owner

The City of Lewiston is an EOE. For more information, please visit our website @ [www.lewistonmaine.gov](http://www.lewistonmaine.gov) and click on the Non-Discrimination Policy.

***PUBLISH ON: April 27, 28 & 29, 2016***

Please bill the City Clerk's Dept. account. Thank you.

# LEWISTON CITY COUNCIL

## MEETING OF MAY 3, 2016

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 5**

**SUBJECT:**

Public Hearing regarding the proposed New Comprehensive Plan entitled Legacy Lewiston.

**INFORMATION:**

The City Council is asked to hold a public hearing to receive citizen input and comment regarding the proposed new Comprehensive Plan entitled Legacy Lewiston. In the next few months, there will be a Council workshop and another public hearing prior to the adoption of the Plan.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator supports the requested action.

*EAB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To conduct a Public Hearing to receive citizen input and comment on the new Comprehensive Plan entitled Legacy Lewiston.



City of Lewiston  
Planning & Code Enforcement  
Gil Arsenault, Director  
**MEMORANDUM**



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**To:** City Clerk's Office  
City Council Members  
Mayor Robert E. Macdonald

**From:** David Hediger

**Date:** February 29, 2016

**Subject:** Planning Board Action

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The Planning Board took the following action at their meeting held on February 22, 2016 regarding adoption of a new comprehensive plan – Legacy Lewiston.

The following motion was made:

**MOTION:** by **Walter Hill** pursuant to Article VII, Section 4(b) of the Zoning and Land Use Code to send a favorable recommendation for the City Council's consideration to adopt a new comprehensive plan – Legacy Lewiston – as edited by the Planning Board, and that the plan was prepared with the intent of complying with the Growth Management Act (30 M.R.S.A. §§ 4312 - 4350.), and that it includes all of the applicable required elements of the Maine Comprehensive Plan Review Criteria Rule (07-105 CMR 208).  
Second by **Michael Marcotte**.

**VOTED: 7-0 (Passed)**

c: Ed Barrett, City Administrator  
Planning Board Members

The City of Lewiston is an EOE. For more information, please visit our website at [www.lewistonmaine.gov](http://www.lewistonmaine.gov) and click on the Non-Discrimination Policy.



# CITY OF LEWISTON



## Department of Planning & Code Enforcement

**TO:** City Council Members  
Mayor Robert E. Macdonald  
**FROM:** David Hediger, City Planner  
**DATE:** April 27, 2016  
**RE:** Public hearing to adopt a new comprehensive plan for the City of Lewiston.

At the March 8, 2016 staff presented the Planning Board's February 22, 2016 favorable recommendation to adopt a new comprehensive plan – Legacy Lewiston – as edited by the Planning Board. The action was taken pursuant to Article VII, Section 4(b) of the Zoning and Land Use Code, whereby the Board shall prepare and maintain a comprehensive plan as defined in Maine's Growth Management Act, 30M.R.S.A. section 4961 as amended (now 30-A M.R.S.A. §§ 4312 – 4350).

Staff provided the Council a summary of changes and comments made by the Planning Board dated February 16, 2016 (included again with this packet for your review). This listing was staff's attempt to highlight the more substantive changes being recommended to the plan. However, it should not be viewed as all-encompassing or as a substitute for reviewing the plan, as there may be others sections the Council wants to discuss.

At this time, a public hearing is being scheduled before the City Council. The intent of this hearing is to provide another opportunity for public input on the plan. Comments from the public should be noted and considered by the Council. This hearing will be followed by a Council workshop, at which time staff will be looking for guidance on any remaining changes that should be made to the plan, taking into consideration the Planning Board's recommendations and those received from the public. A final hearing will then be scheduled at which the Council will be asked to adopt the plan. The goal is to build consensus prior to adoption. When adopting the plan and pursuant to Chapter 208 of the State Rules, the City Council must make the following certification:

I (we) certify that this comprehensive plan was prepared with the intent of complying with the Growth Management Act (30 M.R.S.A. §§ 4312 - 4350.), that it includes all of the applicable required elements of the Maine Comprehensive Plan Review Criteria Rule (07-105 CMR 208), and that it is true and accurate.

Draft copies of the plan were provided to the Council in March. The plan may also be viewed at [www.lewistonmaine.gov/comprehensiveplan](http://www.lewistonmaine.gov/comprehensiveplan)

It should be noted, staff continues to make minor changes to the plan with respect to grammar, typos, and updating data. It is staff's intent of have a final version produced when the Council is scheduled to adopt the plan.

## **Background on the plan and process**

The comprehensive plan is the foundation for determining effective public policy, master planning, and land use decisions for the future, and provides an ongoing framework for informed and directed development. The plan shall include goals, objectives, and strategies and utilize maps, graphs, and other imagery tools to analyze, assess, and recommend best practices for values-based planning, economic development, housing, infrastructure, and other improvements. The responsibility of the plan is to reflect and respond to the priorities, values, and requirements of Lewiston's residents, safeguarding the city's history and sense of place while stimulating the conditions for short- and long-term needs and desires of Lewiston.

The current Plan, adopted in 1997, ceased to be consistent with MSRA Title 30-A and Chapter 208 of the State of Maine's Comprehensive Plan Revision Criteria Rule at the end of 2012. Therefore, an update of the 1997 Comprehensive Plan is needed address new and future planning issues to result in a plan consistent with the Growth Management Act.

The city engaged the services of Town Planning and Urban Design Collaborative, LLC (TPUDC) to assist in drafting a plan for adoption by the City Council and for a finding of consistency by the State. Rules contained in Chapter 208 of the Comprehensive Plan Review Criteria contain criteria the Department of Agriculture, Conservation and Forestry uses to review community comprehensive plans for consistency with the goals and guidelines of the Growth Management Act. The State reviewed an early draft of the plan and made a finding of consistency in March 2015. Given some of the pending changes that have since been recommended by the public, staff, and Planning Board, a revised updated plan, once adopted by the City Council, will be provided to the State to maintain the City's finding of consistency. A finding of consistency under Chapter 208 is deemed valid for twelve (12) years from the date of issue.

This planning process began at the end of April 2013. The consultant, staff, and the Planning Board reached a point where a public hearing was held on February 22, 2016 to obtain additional comments and to provide a recommendation for adoption of a new comprehensive plan to the Council pursuant to Article VII, Section 4(b) of the aforementioned code. The public comment received at the meeting was very supportive and appreciative of the process and efforts made by the consultant, staff, and Planning Board. A few suggestions were provided; however, the Board did not incorporate them into the plan recommended for adoption.



# CITY OF LEWISTON

## Department of Planning & Code Enforcement



**FROM:** David Hediger, City Planner  
**DATE:** February 16, 2016  
**RE:** Summary of Planning Board comments and changes to draft comprehensive plan.

The Planning Board completed their review of the second draft of the comprehensive plan – Legacy Lewiston – in January 2016. This draft was provided to the Board in March 2015 and incorporated initial comments provided to the consultants, TPUDC, from the Think Tank Committee, City staff, the Planning Board and the community.

The comments provided by the Planning Board on this second draft are extensive. However, the majority of them involve correcting typos, wordsmithing, and providing clarification. Given the size of the document and the large number of changes, the following is a summary of the more substantive changes and comments the Planning Board has noted on this draft of the plan. It should be noted there are many other changes and comments throughout the plan provided by the Board. The listing below attempts to highlight items the Board clearly agreed or remained divided upon which resulted in possible changes to policies, goals, or need for additional clarification. These comments should be considered in full context with the applicable sections of the plan.

1. P. 9: Established Lewistonians, new language: This population knew Lewiston in its heyday as a thriving industrial City, or perhaps are part of families that have long resided in the City. Now in their 70's and older, many may have worked in the mills or manufacturing industries of days gone by. They like to remember their City for what it was before the decline of traditional industries. Generally speaking, they are the parents of the "boomers" and are widely heralded for their loyalty, hard work, patriotism, respect for authority, self-reliance, and a strong sense of civic obligation. Some Established Lewistonians may find it difficult to get excited about Lewiston again, while others see the potential in change. They can and do provide a wealth of knowledge about the history and unique characteristics of their hometown.
2. P. 9: Another group and picture is added here as follows: "Accomplished Boomers": This population of Lewiston now in their 50's and 60's are beginning to ease into their retirement years. Despite such negative experiences as Vietnam, race riots, and recessions, they have been a fortunate generation with more educational, financial, and social opportunities than any generation before them. They may have grown up and raised families in Lewiston during times of optimism, achievement, and downturns. As a group, they expected the world to improve with time. Their years of experience are an asset, but they are challenged by the technological skills and experience of the Next Generation.
3. P. 10: Additional language to provided clarification on formatting of the plan: The Plan includes columns of "What We Heard" as an attempt to express some of the feedback

received during the planning process. But not all of these comments necessarily reflect the overall consensus of the community or the future direction of Lewiston. Remember ...

4. P. 14 and 15: The Bates College survey section will be changed to a survey of Lewiston colleges after guidance from the Think Tank and Planning Board. The initial survey's timing was poor, with Bates students leaving for summer. Staff surveyed a second time with other schools included. This section will be update to reflect additional replies. The point of this section is to provide a snapshot of students' thoughts about Lewiston. New language: The survey was administered in June of 2013 and May of 2015 in attempt to collect a larger sample from students attending Bates College, USM's Lewiston-Auburn College, and Kaplan University.
5. P. 30 and infographics throughout the document: The consultant started their work in the summer of 2013. As the Planning Board completed their review, some of the data has become out-of-date. Some census data appears to be for the Lewiston Metropolitan Statistical Area (MSA) instead of just Lewiston. Staff is in the process of updating infographics throughout the plan with new or more accurate date where applicable. For example, page 30, poverty levels, will be updated with 2014 data as follows: Lewiston 23.6%, Auburn 17%, Portland 21%, Bangor 25%, and Maine 13.9%.
6. P. 46. Graphic to be deleted or moved to the housing section. Interesting figure, but misleading with the source being a "property owner"; this is not representative of the entire downtown or community.
7. P. 51. Add category "Culturally Significant Buildings": Lewiston offers a number of venues that have and continue to contribute to the community's identity. The Basilica Saints Peter and Paul, also known as Saints Peter and Paul Church, was finished on July 18, 1936 and dedicated on October 23, 1938. On July 14, 1983, the church was added to the National Register of Historic Places and is the second largest church building in New England. An active church with an impressive presence amongst the city skyline, it also serves as venue for various events. The Androscoggin Bank Colisée, with a general admission capacity of 4,000 (3,677 seated), is a multi-purpose arena that opened in 1958. Perhaps best known as the venue for the heavyweight boxing championship rematch between Sonny Liston and Muhammad Ali, the Colisee has and continues to be home to hockey league teams as well as trade shows, concerts, and other sporting events.
8. P. 55: The Board and Think Tank remained sensitive to naming specific businesses and organizations. In this section, the consultant listed many local housing assistance organizations. However, the Board believes it is necessary to include additional organizations:
  - o Tedford Housing. They work together with people in their communities to find lasting solutions to the challenges of homelessness, including shelter, housing, and services that empower adults, children, and families in need.
  - o Veterans Inc.: They help eliminate homelessness among veterans by providing quality services and opportunities in the areas of health, employment, and housing.
  - o CEI. They provide financing and technical assistance to small and medium-sized businesses, community facilities, renewable energy, commercial real estate, and affordable housing.
9. P. 56: new language: Depending upon the need, families have a number of resources for

- assistance including code enforcement, the housing authority, general assistance, and the state's health and human services and environmental departments. Tenant advocacy groups may provide assistance for those not able to speak English, unfamiliar with the reporting process, or concerned with authoritative actions by agencies or landlords.
10. P. 59: additional language: The tax credit units are offered at a fixed rent intended to be affordable to families at 50-60% of Area Median Income. Tenant based Section 8 assistance is unique in that it can be used throughout the city for renting an apartment of an assisted family's choosing. This allows the local landlord community to benefit from federal subsidy dollars.
  11. P. 62: under the pie charts an asterisk must be added with the following noted: When applying average move rates by household type, approximately one-quarter of these households will move over the next five years. Assuming appropriate residential units are available, Lewiston has the potential to capture a portion of these moving households. Young households are the largest group likely to move, and thought should be given to whether Lewiston is in a good position to attract those moves.
  12. P. 68: new language: Improvements like those to the bandstand are in part guided by a master plan providing guidance for future park improvements. Recent improvements include new plantings and upgrades to infrastructure.
  13. P. 79: #3 needs to be deleted as the Reservoir is not available or safe for swimming. Replace with #3 Rancourt Preserve and Androscoggin Greenway.
  14. P. 83: #3 needs to be deleted as the Reservoir is not available or safe for swimming. Replace with #3 Rancourt Preserve and Androscoggin Greenway. Description to be added.
  15. p. 93: add language to the Public Transit section: Rail service to Lewiston has played an historically large role in the development of Lewiston. Many French-Canadian immigrants arrived in the Lewiston via the Grand Trunk Railway. However, passenger rail service to Lewiston ended in the 1960's. With an apparent resurgence in passenger rail interest and the success of the Amtrak Downeaster from Boston to Portland, connectivity via rail is now seen as a means of promoting economic development in Lewiston in addition to improving and providing an alternative form of public transit.
  16. p. 93: add language: add to section: The lack of intercity bus service also creates transportation and connectivity barriers for residents.
  17. P. 96 and 97: text and map listing roads and levels of services must be updated.
  18. P. 105-107: updates being made to Fire and Police data.
  19. P. 110: additional language regarding solid waste: These costs may be further reduced with improved recycling rates. In 2015, only 8.6% of Lewiston's residential solid waste (including that from schools and small businesses that bring their waste to the solid waste facility) was recycled. The city also is home to and has relationships with ReEnergy Lewiston LLC, which accepts and recycles materials from construction and demolition activities, and Cassella Waste Systems, Inc.'s single stream materials recycling facility, which accepts and processes recyclables including cardboard, paper, plastic, metal and glass that is remarketed and transformed into new products.
  20. P. 121: Under "Organization of the Map", there was much discussion about the Conservation and Growth Map. Not all Board members agree with where growth is projected or limited. However, as noted in the previous paragraph of the plan, the Map is not a zoning map. It is intended to show, in a general sense, the desired pattern and

location of future development. The boundaries shown are imperfect and intended only to reflect the general pattern of desired future development.

21. P.122: Some concern was expressed as to whether the statement "...focus should be made on infill development and redevelopment in areas already served..." conflicts with recommendations elsewhere in the plan for new development (i.e. Geiger Neighborhood and Industrial Village).
22. P. 128: Character District (CD3) Suburban Neighborhood. Planning Board expressed concerns that "expand(ing) the ability to create an "accessory apartment" in "existing single family homes" may change the fabric of single family neighborhoods.
23. P. 131. The Summary of Impact to Community Facilities and Services table is helpful and interesting, but some of the statistics are in need of revisiting and updating. As an example, student projections in Lewiston are somewhat of an anomaly given the impact of new immigrants relocating in the community. Therefore, the numbers have been updated based upon the Lewiston School Department's most recent projection. This projection takes into account that Lewiston's average household size exceeds the state average, in part due to new immigrant families. That number is expected to drop in future years, along with enrollment being limited by housing capacity.
24. P. 134: Some Planning Board members expressed concerns with these conceptual plans. For example, Geiger School Neighborhood encourages unrealistic growth where infrastructure does not exist. The image shows too much density and the school would have to expand if developed in this pattern. There was also concern with the small lot sizes shown. Other Board members noted that all the plans and images in this section titled "Promote Mixed Use Centers" are conceptual and that greater emphasis is needed on focusing on these ideas as concepts being considered rather than specific plans for these areas. To make it clear that these images are for illustrative purposes only, the term "Concept Growth Sector Plan" and/or "concept" is being added where necessary on pages 134-163.
25. P. 138 -139: Under "Provide More Housing Choices," the Planning Board expressed some concern with the density shown for housing, lack of parking at the school, house lots being too small for septic, the need for expansion of public utilities, and lack of room for growth of the school associated with new residential development. The Board feels the graphics should show less density and make clearer that the development pattern shown is conceptual in nature. The consensus of the Board was that the concept may be appropriate, but the graphic representation is too grand in scale as shown.
26. P. 139: "Cottage Courts." The Planning Board expressed some concern about small lot sizes. It was also noted that if the small greens are to be maintained by an association, not the City, such associations have historically been problematic in Lewiston due to lack of interest and responsibility by the homeowners. If implemented, thought and consideration is needed as to who and how they will be maintained.
27. P. 144-145. Urban Farm concept in this part of town caused some concern. Even conceptually, having pigs and chickens in this area is likely problematic. Recognizing much depends upon the size and scale of the operation/farm, i.e., livestock versus fruit and vegetables, this is probably not appropriate for this area.
28. P. 150-151: Lisbon Street Suburban Retrofit Concept. Some Planning Board members noted the area currently lacks creativity; that infill with retail should occur here first before a new site is developed at exit 80.

29. P. 151: Safe Streets: Some Planning Board members expressed concerns that this is not an appropriate road to be considered for a "complete street". They recognized surrounding streets may be more appropriate and that the level of development shown may accommodate complete streets. They suggested revising the language so that safe and complete street designs are considered when appropriate without specific streets referenced. Language to be added: Consider, when appropriate, the implementation of complete streets. Additional consideration should be given to seeking alternate routes to avoid congested areas.
30. P. 161-162: Rural Living Hamlet Concept: Some Board members welcomed the desire and ability to preserve open space in rural areas. But the imagery provided shows a density that would require extensions of city sewer. Understanding the images are conceptual, consideration should be given to amend the graphic to show larger lots.
31. P. 170. Goal amended to "establish a TIF district in the currently existing Mill, Riverfront, and Centreville zoning districts to support local business".
32. P. 171. Under "Strengthen Regional Alliances," the Planning Board discussed whether this section should speak to Lewiston being a service center community, noting this is a benefit for surrounding communities and the need for those communities to contribute to Lewiston's public service costs.
33. P. 172: Some Board members question whether this number (up to 600 new housing units by 2020) remains realistic given economic conditions.
34. P. 172: Some Planning Board members feel this language ("...focus on providing new, high quality, multifamily residences as opposed to the current trend of building single family homes in areas not currently served by water and sewer") is inconsistent with other sections of the plan where competing strategies/policies are recommended. Some questioned whether we looking for in- fill or conservation of rural areas, or new subdivisions and new commercial/village centers.
35. P. 172: Reference to public and providing funding is made. Some Board members have expressed concerns with additional public funds and investment toward subsidized housing and whether additional subsidized units will improve the overall desirability of Lewiston.
36. P. 173: Promote Construction of mixed income affordable housing. The Board noted the goal and policy must also encourage and look to enhance opportunities specifically for market rate units and not just affordable units.
37. P. 174: Delete "Implement Vacancy Licensing". There was discussion about whether this section should remain: some thought it was a good idea, others questioned whether it was realistic and how to implement given current staffing levels.
38. P. 175: Establish Land Bank: Concerns were expressed about pursuing land available on the open market to support development. Land banking may be appropriate to support a municipal use (i.e. school, fire, police, etc.). Otherwise, let the private sector resolve title and lien issues. Some Planning Board members have concerns about potential collusion with the City entering into direct negotiations with property owners. There was also concern that it may become a burden to the finances of the community.
39. P. 176: Delete "Start a Board and Seal Club". Not legally allowed.
40. P. 181: Some Board members question if these numbers (2,000 new jobs by 2020 in Androscoggin County) remain realistic given the current economic climate.
41. P. 192: 2-Way Street Network: Many Board member expressed concerns and doubts

- with returning or making roads two-way and stressed that, while this should be considered, it should not be a priority.
42. P. 193: Board did not want two-way conversions to take precedence over other traffic improvements, while also recognizing some downtown roads may make sense to change upon additional studies being completed. Language added: While specific streets are referenced as examples, the City's goal should be to consider which streets may function more effectively for purposes of improving traffic flow, business activity, and pedestrian activity.
  43. P. 198: Improving Neighborhood Street and Intersections: The Board noted creating sidewalks 15' wide is challenging to due existing ROW widths, travel lanes, returning to two-way traffic on certain streets, the accommodation of bike lanes, etc. Sidewalks of this width should be allowed only when determined to be appropriate.
  44. P. 201: Regional Coordination (Transit): The Board felt MDOT does not do a good job of obtaining public input on improvements. Additional language: The City should look to improve communications with Maine Department of Transportation with respect to community input and involvement on planned improvements. This may also result in greater public participation when meetings are held in Lewiston.
  45. P. 201: Regional Traffic and Transit Service: additional language: The city should also look to gather support from surrounding communities and explore the possibility of removing the Maine Turnpike toll barrier in Gray/New Gloucester. The toll barrier encourages trucks and commuters to avoid the turnpike north of the Gray exit - ruining the quality of life and damaging secondary roads with heavy weight vehicles.
  46. P. 206: Delete entire "~~Create a TDR Program~~" as staff and Board have since learned (and reaffirmed) that TDR's don't work well Maine. Bates students completed a study showing we have too much available land and not enough development pressures for implementation.
  47. P. 219: additional language related to solid waste: The city needs to emphasize the financial benefits to the community of recycling and improve upon the existing low rates of 11.2% in fiscal year 2013 and 8.6% in 2015. Additional outreach and education on the benefits of recycling must also be implemented. Additional efforts should also be made to increase the utilization of the zero- sort recycling facility, an underutilized asset to the community.
  48. P. 220: Capital Project Investments: in years past, the School Department did not always submit a list of capital improvements for the Planning Board and Council to review. Additional language: The School Department must include its capital requests and participate in this process.
  49. P. 231: add another sub-category under Resource Allocation titled " Staffing: Additional city staffing must be considered to support the successful implementation of this plan. Specifically, the need to right size the Department of Planning and Code Enforcement will assist in moving forward with the vision and guiding principles of this plan in accord with the implementation matrix."
  50. P. 233-257: Implementation Matrix (also referenced as pages 1-25): changes on these pages relate to the Transformations section of the plan in effort to makes sure the action and parties are consistent with that referenced in the plan.

# LEWISTON CITY COUNCIL

MEETING OF MAY 3, 2016

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 6

**SUBJECT:**

Public Hearing and First Passage regarding an amendment of the Animal and Animal Control ordinance and an amendment to the Land Use Code regarding the keeping of chickens in residential zoning districts .

**INFORMATION:**

A citizen petition was submitted requesting an amendment to the City's Animal ordinance and to the Land Use Code to allow the keeping of chickens on residential property of no less than 20,000 square feet. The Planning Board voted 6-1 to send an unfavorable recommendation regarding this requested change.

A packet of background material is included and was prepared by City Planner David Hediger. This provides additional details regarding this issue.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator reserves comment on this matter until the Council meeting.

*EAB/klmm*

**REQUESTED ACTION:**

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That the proposed amendment to the City Code of Ordinances, Chapter 14 "Animals", Article. VII "Keeping of Non-Domestic Animals", Division 4 "Keeping of Chickens on Lots Developed with Single Family Detached Dwellings Including Mobile Homes on Individual Lots" and Appendix A "Zoning and Land Use Code", Article V "Administration and Enforcement" receive first passage by a roll call vote and that the public hearing on said ordinance be held at the next regular City Council meeting.



City of Lewiston  
Planning & Code Enforcement  
Gil Arsenault, Director  
**MEMORANDUM**



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**To:** City Clerk's Office  
City Council Members  
Mayor Robert E. Macdonald

**From:** David Hediger

**Date:** April 26, 2016

**Subject:** Planning Board Action

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The Planning Board took the following action at their meeting held on April 25, 2016 regarding a citizen petition to amend Article V of the Zoning and Land Use Code and Chapter 14 of the Code of Ordinances to allow for the keeping of six chickens on lots developed with a single family detached dwelling on an individual lot:

The following motion was made:

**MOTION:** by **Walter Hill** pursuant to Article VII, Section 4 and Article XVII, Section 5 of the Zoning and Land Use Code to send an unfavorable recommendation for the City Council's consideration of a proposed amendment to Article V, Section 3(aa) of the Zoning and Land Use Code allowing for the keeping of up to six chickens in residential zoning districts on lots of no less than 20,000 square feet developed with single family detached dwellings including mobile homes on individual lots. Second by **Sandra Marquis**.

**VOTED:** 6-1 (Paul Madore opposed)

Note: The Planning Board's recommendation not to amend the Zoning and Land Use Code to allow the keeping of chickens may be overturned by the City Council only by the affirmative vote of at least five councilors as per Article XVII, Section 5(e)(2) of the Zoning and Land Use Code.

The following motion was made:

**MOTION:** by **Michael Marcotte** to send an unfavorable recommendation for the City Council's consideration of an amendment to the Code of Ordinances Chapter 14 Animals, Article VII. Keeping of Non-Domestic Animals, Division 4. Keeping of Chickens on Lots Developed with Single Family Detached Dwellings Including Mobile Homes on Individual Lots. Second by **Pauline Gudas**.

**VOTED:** 6-1 (Paul Madore opposed)

Note: The Planning Board's authority is limited to the proposed amendment language of Article V, Section 3(aa) of the Zoning and Land Use Code. However, staff recommended the Board consider reviewing and providing a recommendation on the proposed language found Chapter 14, Article VII, Division 4 of the Code of Ordinances for the City Council's consideration. Should Article V, Section 3(aa) be adopted by a super majority vote of the Council, the provisions contained in Chapter 14, Article VII, Division 4 should be considered for adoption by the City Council. A simple majority vote by the Council is required for adoption of this section of the Code of Ordinances, as it is not an amendment to the Zoning and Land Use Code.

c: Ed Barrett, City Administrator  
Planning Board Members

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## CITY OF LEWISTON

### Department of Planning & Code Enforcement

**TO:** City Council Members  
**Mayor Robert E. Macdonald**

**FROM:** David Hediger, City Planner

**DATE:** April 27, 2016

**RE:** A petition to amend the Zoning and Land Use Code and the Code of Ordinances to allow for the keeping of six chickens on lots developed with a single family detached dwelling on individual lots.

In the City of Lewiston, the keeping of chickens is limited to properties located in the Rural Agricultural (RA) district on lots of at least three acres. Since at least 2009, there appears to be a growing interest by citizens to keep chickens in zoning districts other than the RA. On June 16, 2009 the City Council voted for the Planning Board to prepare an amendment to allow the keeping of chickens in residential areas. On August 24, 2009 the Board voted 7-0 not to adopt an amendment to allow chickens. The Council agreed and chose not to adopt an amendment. In 2013, staff was asked to revisit the matter with the Planning Board given the number of requests being made to Administration and Planning and Code Enforcement. On November 25, 2013 the Board voted to take no action at that time with respect to adopting an ordinance.

This time, a resident has submitted a petition to amend the ordinance to allow chickens. Unlike the previous discussions, this proposed amendment is being initiated by a property owner pursuant to Article XVII, Section 5 of the Zoning and Land Use Code. The petitioner, Shelly Suzuki of 16 Champlain Avenue, currently has six chickens on a single family house lot. Upon being notified that this was violation of the Zoning and Land Use Code, staff agreed not to take enforcement action if she pursued an amendment to the code. Pending a final decision from the City Council, the outcome of the proposed amendment will direct staff as to what actions will be taken.

Staff provided the petitioner guidance in drafting the ordinance, referencing past attempts and language that was considered by the Planning Board. Staff shared past concerns including public health issues, the burden on code enforcement, the animal control officer, Lewiston Police Department, lot size requirements, and, at that time, the uncertainties to enforcement of the ordinance.

Compared with previous proposal, the language proposed by the petitioner is much simpler to administer. The proposed amendment to Article V, Section 3(aa) of the Zoning and Land Use Code allows for the keeping of up to six chickens in residential zoning districts on lots of no less than 20,000 square feet developed with single family detached dwellings including mobile homes on individual lots. Staff suggested the 20,000 square lot size to the petitioner as that was a lot size last considered by the Planning Board in 2013. The lot size provision would be administered by Planning and Code Enforcement, being part of the Zoning and Land Use Code.

The amendment also includes performance standards contained in Chapter 14 Animals, Article VII. Keeping of Non-Domestic Animals, Division 4. Keeping of Chickens on Lots Developed with Single Family Detached Dwellings Including Mobile Homes on Individual Lots. Said provisions are located in the Code of Ordinances are technically outside the purview of the Planning Board's.

Should Article V, Section 3(aa) be adopted by the Council, the provisions contained in Chapter 14, Article VII, Division 4 would be considered for adoption by the City Council. Said performance standard provisions would be administered by the Animal Control Officer.

It's worth noting, many of the provisions in Chapter 14 have been modified from other communities, and in large part, the City of Auburn. In speaking with Auburn's Planning and Code Enforcement Department, their current language has been relatively easy to administer with few issues. Most issues have been related to the keeping of a rooster, which is not allowed. Staff also spoke with Animal Control Officer Wendell Strout, who works for Lewiston and used to provide assistance to Auburn. He expressed no concerns with the proposed ordinance and noted when assisting Auburn, complaints tended to be related to roosters.

On April 25, 2016 the Planning Board held a public hearing to consider Mrs. Suzuki's proposal. Citizens spoke both in favor and in opposition. Those in favor noted there are properties in Lewiston that currently have chickens from which there have been no complaints and if properly managed, do not create adverse conditions for abutting properties owners. They also noted the existing ordinance should be clarified for easier interpretation by residents. Those in opposition expressed concerns with the proposed minimum lot size of 20,000 square feet being too small, the possibility of noise and odor, means of chicken manure disposal, possible adverse health impacts, and negative impacts to property values. Neighbors of Mrs. Suzuki presented a signed petition by those in opposition to the proposed amendment. Staff also received correspondence from residents in support and opposition to the proposed amendment, which have been included in the Council's packet.

The hearing ended with the Planning Board voting 6-1 in opposition of the petitioner's amendment, sending a negative recommendation for the City Council's consideration.

4/5/16

**AN ORDINANCE PERTAINING TO THE ZONING AND LAND USE CODE  
THE CITY OF LEWISTON HEREBY ORDAINS:**

Appendix A of the Code of Ordinances of the City of Lewiston, Maine is hereby amended as follows:

**APPENDIX A  
ZONING AND LAND USE CODE  
ARTICLE V. ADMINISTRATION AND ENFORCEMENT**

**Sec. 3. General provisions.**

(aa) Notwithstanding the provisions under Article XI, Section 23 of this Code, the keeping of up to six chickens is permitted in residential zoning districts on lots of no less than 20,000 square feet developed with single family detached dwellings including mobile homes on individual lots pursuant to the provisions contained in Chapter 14, Article XIII, Sec 14-45 thru 14-53.

**REASONS FOR THE PROPOSED AMENDMENT**

In the City of Lewiston, the keeping of chicken is limited to properties located in the Rural Agricultural (RA) district on lots of at least three acres. There has been an interest by citizens to keep domesticated chickens in zoning districts other than the RA.

The proposed amendment to Article V, Section 3(aa) of the Zoning and Land Use Code allows for the keeping of up to six chickens permitted in all zoning districts on lots developed with single family detached dwellings including mobile homes on individual lots pursuant to the provisions contained below in Chapter 14, Article XIII, Sec 14-45 thru 14-52.

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**AN ORDINANCE PERTAINING TO THE KEEPING OF CHICKENS IN THE  
CITY OF LEWISTON HEREBY ORDAINS:**

**Chapter 14 Animals  
Article VII. Keeping of Non-Domestic Animals  
Division 3. Other Animals**

**Sec. 14-31. Keeping of fowl, rabbits and guinea pigs.**

Fowl, rabbits and guinea pigs must be kept indoors, or if outdoors, in a secure pen or enclosure. Litter and droppings from these animals must be collected and disposed of in accordance with the provisions of section 14-41, disposal of excrement in general, shall specifically apply to the disposal of excrement of fowl, rabbits, and guinea pigs. Provided, however, that the provisions of this section and section 14-41 shall not apply to ducks or other waterfowl inhabiting natural or manmade water courses or bodies of water.

**Division 4. Keeping of Chickens on Lots Developed with Single Family Detached Dwellings Including Mobile Homes on Individual Lots.**

**Sec. 14-45. Purpose**

The purpose of this article is to provide standards for the keeping of domesticated chickens. It is intended to enable residents to keep a small number of female chickens on a non-commercial basis while creating standards and requirements that ensure that domesticated chickens do not adversely impact the neighborhood surrounding the property on which the chickens are kept. The provisions of this section are not to preclude other sections of Chapter 14 as applicable.

**Sec. 14-47. Number and type of chickens allowed.**

- (a) The maximum number of chickens allowed is six (6) per lot developed with a single family dwelling.
- (b) Only female chickens are allowed. There is no restriction on chicken species.
- (c) Chickens must be purchased from an approved source such as the National Poultry Improvement Plan (i.e. hatcheries that participate in the National Poultry Improvement Plan).
- (d) This provision shall not apply to allowed agricultural uses.

**Sec. 14-48. Non-commercial use only.**

Chickens shall be kept as pets and for personal use only; no person shall sell eggs or engage in chicken breeding or fertilizer production for commercial purposes. The slaughtering of chickens is prohibited.

**Sec. 14-49. Enclosures.**

- (a) Chickens must be kept in a fenced area or enclosure at all times. Enclosures must be clean, dry, and odor-free, kept in a neat and sanitary condition, in a manner that will not disturb the use of neighboring lots due to noise, odor or other adverse impact. The free ranging of chickens is not allowed.
- (b) Chickens shall be secured within a henhouse during non-daylight hours.
  - (1) Henhouses are not allowed to be attached or located in any part of a dwelling unit. The henhouse shall be enclosed on all sides and shall have a roof and doors. The henhouse must be well-maintained.
- (c) Chickens shall be kept only in the rear or side yard behind the principle structure of the lot developed and must be kept on the property of the owner. Chicken henhouses, fenced areas, and enclosures shall not be closer than ten (10) feet to any property line.

**Sec. 14-50. Odor and noise impacts.**

The keeping of chickens authorized under this section shall not create a nuisance and shall be conducted in a manner that does not disturb the use of adjacent properties. Odors from chickens, chicken manure, or other chicken-related substances shall not be perceptible at the property boundaries. Perceptible noise from chickens shall not be loud enough at the property boundaries to disturb persons of reasonable sensitivity.

**Sec. 14-51. Predators, rodents, insects, and parasites.**

The property owner and/or chicken owner shall take all necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites.

Chickens found to be infested with insects and parasites that may result in unhealthy conditions to human habitation may be removed by the City, through the animal control officer, or any other designee, and the cost of the same shall be borne by the property owner and/or chicken owner.

**Sec. 14-52. Separability.**

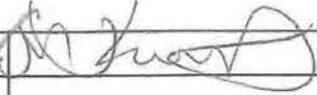
In the event that any section, subsection or portion of this article shall be declared by any competent court to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or portion of this article.

P

**PETITION TO AMEND THE CITY OF LEWISTON  
ZONING AND LAND USE CODE**

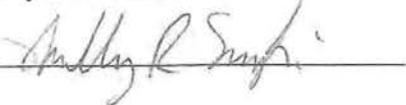
Pursuant to Appendix A, Article XVII, Section 5 AAmendments@ of the City of Lewiston Zoning and Land Use Code, we the undersigned residents of the City of Lewiston, being eighteen (18) year of age or older, do hereby petition the City of Lewiston **PERTAINING TO THE KEEPING OF CHICKENS IN THE CITY OF LEWISTON** described in the exhibits attached hereto:

	SIGNATURE	PRINTED NAME	PHYSICAL STREET ADDRESS (No PO Boxes)	DATE
1	<i>Shelly Suzuki</i>	Shelly R Suzuki	16 Champlain Ave	3/29/16
2	<i>Jan P. Zeman</i>	Jan P. Zeman	24 Champlain Ave	3/29/16
3	<i>Susan D. Sparks</i>	SUSAN D. SPARKS	25 Fair St	3/29/16
4	<i>Shawn W. Stepp</i>	Shawn W. Stepp	87 Baird Ave	3/29/16
5	<i>Jenna Stepp</i>	Jenna Stepp	87 Baird Ave	3/29/16
6	<i>Susan Churd</i>	Susan Churd	7 Judy St	3/29/16
7	<i>John Tancredi</i>	John Tancredi	11 Lease Ave	3/29/16
8	<i>Shayna Powell</i>	Shayna Powell	29 Eaton St.	3/29/16
9	<i>Richard Chas Powell</i>	Richard Chas Powell	28 Eaton St.	3/29/16
10	<i>Sharyn Balnites</i>	Sharyn Balnites	628 main St	3/30/16
11	<i>Mark Daniels</i>	MARK DANIELS	20 Champlain Ave	3-30-16
12	<i>Julie Daniels</i>	Julie Daniels	20 Champlain Ave	3-30-16
13	<i>Jane M. Footer-Cole</i>	Jane M. Footer-Cole	14 Katie Ave.	4-2-16
14	<i>Liette F.P. Morin</i>	Liette F.P. Morin	315 East Ave.	4-2-16
15	<i>Linda Ustach</i>	Linda Ustach	45 Hogan Rd	4-2-16
16	<i>Herdi Casavan</i>	Herdi Casavan	25 Orchard Cir	4/3/16
17	<i>Robert A Casavan</i>	Robert A Casavan	25 Orchard Cir	4/3/16

18		Michael Perreault	19 Dill St.	4/3/16
19				
20				

**CIRCULATOR=S VERIFICATION**

I hereby verify that I am the Circulator of this petition that all the signatures to this petition were made in my presence, and to the best of my knowledge and belief, each signature is that of the person it purports to be, and each person is a resident of the City of Lewiston.



4/3/16

Signature of Circulator

Printed Name of Circulator

Date

**REGISTRAR=S CERTIFICATION**

I hereby certify and verify that the names of all of the petitioners listed as valid appear on the voting list as registered voters in the City of Lewiston.

Total Valid: 18

Total Invalid: 0



Date: 4-5-16

Signature of Registrar/Deputy Registrar

**PETITION TO AMEND THE CITY OF LEWISTON**  
**ZONING AND LAND USE CODE**

Pursuant to Appendix A, Article XVII, Section 5 A Amendments@ of the City of Lewiston Zoning and Land Use Code, we the undersigned residents of the City of Lewiston, being eighteen (18) year of age or older, do hereby petition the City of Lewiston **PERTAINING TO THE KEEPING OF CHICKENS IN THE CITY OF LEWISTON** described in the exhibits attached hereto:

	SIGNATURE	PRINTED NAME	PHYSICAL STREET ADDRESS (No PO Boxes)	DATE
1	<i>Peter Ferrante</i>	Peter Ferrante	21 Braunt St Lewiston ME 04240	3/30/16
2	<i>Andrew R. Desjardins</i>	ANDREW R. DESJARDINS	39 MANNING AVE LEWISTON, MAINE	3/30/16
3	<i>David Veilleux</i>	DAVID VEILLEUX	10 FRECHETTE ST. LEWISTON, ME	4/5/16
4	<i>Sandra Goddard</i>	SANDRA Goddard	525 College St. Lewiston, ME	4/5/16
5	<i>Kathleen Morris</i>	Kathleen Morris	23 Michaud Ave Lewiston ME 04240	4/5/16
6	<i>Don Morris</i>	Don Morris	23 Michaud Ave Lewiston ME 04240	4/5/16
7	<i>Heather LeCompte</i>	Heather LeCompte	20 Sheffield Ave Lewiston ME 04240	4/5/16
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18			
19			
20			

**CIRCULATOR=S VERIFICATION**

I hereby verify that I am the Circulator of this petition that all the signatures to this petition were made in my presence, and to the best of my knowledge and belief, each signature is that of the person it purports to be, and each person is a resident of the City of Lewiston.

Andrew R. Desjardins

ANDREW R. DESJARDINS

Signature of Circulator

Printed Name of Circulator

Date 4/5/16

**REGISTRAR=S CERTIFICATION**

I hereby certify and verify that the names of all of the petitioners listed as valid appear on the voting list as registered voters in the City of Lewiston.

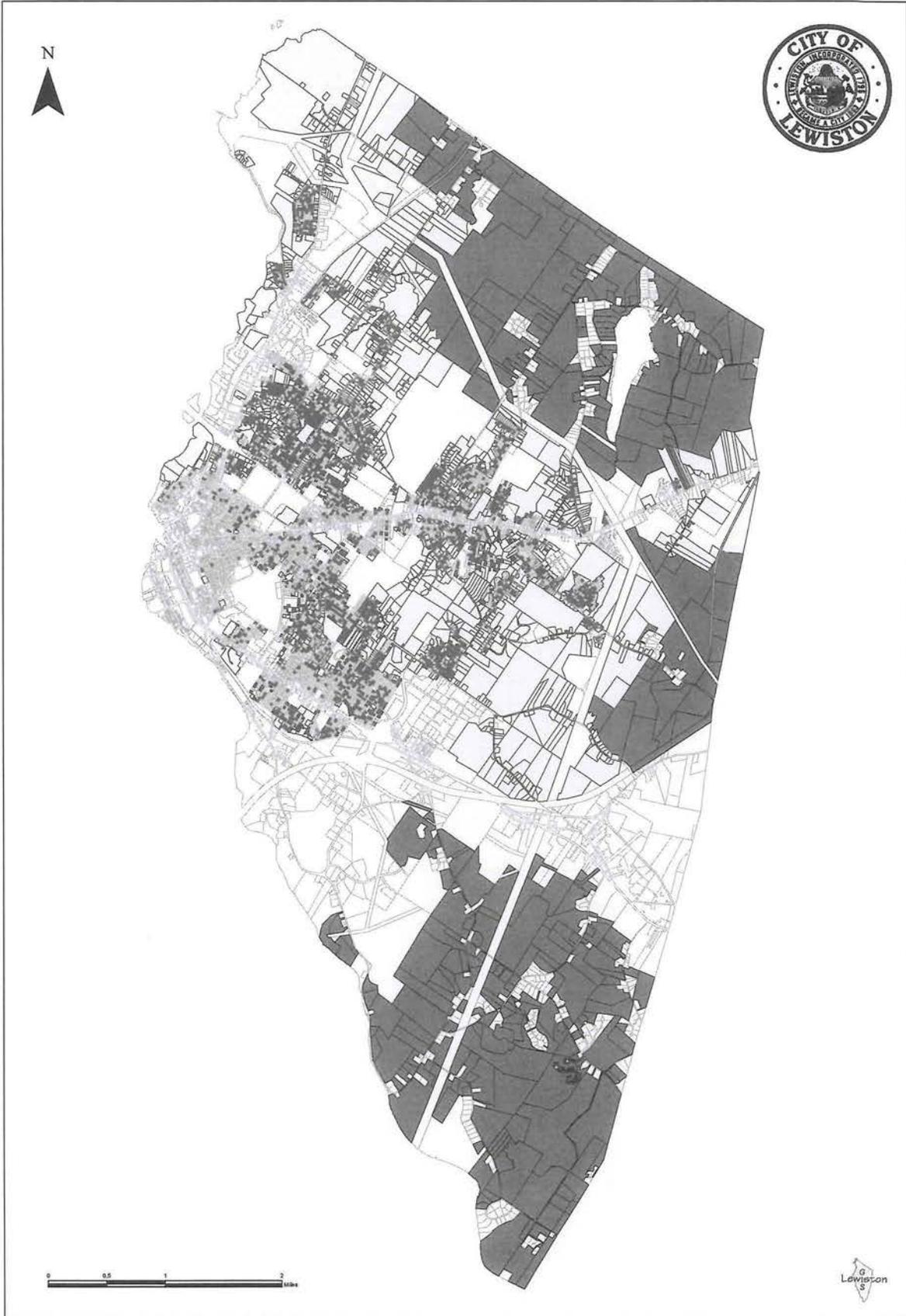
Total Valid: 7

Total Invalid: 0

Erica Scicott

4-5-16 Date:

Signature of Registrar/Deputy Registrar



**Legend**

-  Lots 10,000 to 19,999 sf - Vacant or Single Fam
-  Lots 20,000 sf or greater - Vacant or Single Fam
-  Lots in RA 3 acres or Greater

This study excluded parcels in the following districts:  
 RF, CB, HB, CV, OS, I, UE, M, and RC Zoning.

**Parcel Zoning, Size Relationship  
 Ordinance Consideration  
 for Domestic Chickens**

Date: 11/18/2013

Map prepared by: [unreadable]



**CITY OF LEWISTON  
PLANNING & CODE ENFORCEMENT**

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Gildace J. Arsenault

Director

## MEMORANDUM

**TO:** City Clerk's Office  
City Council Members  
**FROM:** David Hediger, City Planner  
**SUBJECT:** Planning Board Action of August 24, 2009  
**DATE:** August 26, 2009

The Planning Board took the following action at the Public Hearing held on August 24, 2009, regarding an amendment to Article V, Section 3 of the Zoning and Land Use Code, and Chapter 14, Article XIII, Section 14-45 thru 14-57 of the Code of Ordinances to allow the keeping of chickens on lots developed with single family detached dwellings including mobile homes on individual lots.

**MOTION:** by *David Vincent* that the Planning Board, send a recommendation to the City Council for their consideration to not amend Article V, Section 3 of the Zoning and Land Use Code and Chapter 14, Article XIII, and Section 14-45 thru 14-57 of the Code of Ordinances to allow the keeping of chickens on lots developed with single family detached dwellings including mobile homes on individual lots for the following reasons, but not limited to: public health issues, the burden on code enforcement, the animal control officer, and Lewiston Police Department, and the ambiguities to enforcement of the ordinance. Second by **Paul Robinson**.

**VOTED:** 7-0 (Passed).

pc: Phil Nadeau, Acting City Administrator  
Lincoln Jeffers, Assistant to the City Administrator  
Planning Board Members

JCB:jcb\C:\MyDocuments\chickenDeleReview.doc

The City of Lewiston is an EOE. For more information, please visit our website at [www.ci.lewiston.me.us](http://www.ci.lewiston.me.us) and click on the Non-Discrimination Policy.



City of Lewiston  
Planning & Code Enforcement  
Gil Arsenault, Director



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## MEMORANDUM

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**To:** City Clerk's Office  
City Council Members

**From:** David Hediger

**Date:** December 2, 2013

**Subject:** Planning Board Action

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The Planning Board took the following action at their public meeting held on November 25, 2013 regarding the need to draft and adopt an ordinance regulating the keeping of chickens:

The following motion was made:

**MOTION:** by **Walter Hill** to take no action at this time with respect to drafting and adopting an ordinance regulating the keeping of chickens.  
Second by **Paul Robinson**.

**VOTED:** **5-2 (Passed)**  
**Eric Potvin and Kevin Morissette Opposed**

c: Ed Barrett, City Administrator  
Planning Board Members

**From:** [Kevin Roux](#)  
**To:** [Timothy Lajoie](#)  
**Cc:** [Gildace Arsenault](#); [David Hediger](#)  
**Subject:** Chickens in Lewiston  
**Date:** Thursday, April 21, 2016 5:43:46 PM

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Dear Councilor Lajoie and members of the Council,

My name is Kevin Roux. I reside, and own, a 2 unit building located at 62 Lemont Ave., Lewiston. It is my understanding that Monday April 25 the council will be discussing the issue of chicken ownership in the city. Unfortunately, my employment will not allow me to attend so I've decided to make my feelings on this known with a letter.

I currently have and maintain 5 hens at my home. It was not until very recently that I learned city code does not allow for this and I am prepared to abide by the ordinance, first I would like to raise a few points in their defense first.

I have cared for and maintained the chickens as well as any responsible pet owner would. They are pets to me and offer a variety of benefits including insect control, fresh eggs, and tranquil therapy for the stressed mind when returning home from a tough day. Prior to their arrival I and a neighbor had problems with carpenter ants, ticks, and Japanese beetles. In two years time I have not seen hide or hair of either insect. Coincidence? I believe it was directly related to the hens. They spend their day patrolling the lawn and a small patch of woods continuously eating bugs. I dispose of waste by mulching with grass clippings and pine chips and use it as fertilizer. I have not had any issues with odor or flies. Not to mention neighbors and their children often visit to see and feed the chickens. People driving by stop and take pictures of them. I have never had one complaint. My chickens are docile and friendly and have not "mauled" anyone to date. Often times I have extra eggs and hand them out to neighbors, who agree they taste much better than store bought.

That being said, I would like to ask the council to consider chicken ownership in Lewiston. Possibly for single and 2 family owner occupied properties. As with any pet, responsible ownership should be emphasized. I feel roosters should NOT be allowed due to their loud and sometimes obnoxious cackling. Owners should be held to the same standards as with any pet, if it is a nuisance then warnings, fines or other punishment should be administered.

I would also entertain the council to consider lot size. I personally have two tenths of an acre. Maybe the number of chickens for smaller lots could be downsized to a couple or three chickens?

Lastly I want to thank you for your attention to this matter and if given a chance I strongly feel most chicken owners would be responsible owners. I know I would.

Sincerely,  
Kevin Roux  
62 Lemont Ave.

**From:** [mhinrichs](#)  
**To:** [PlanningCode](#)  
**Subject:** Concerns at 16 Champlain Avenue  
**Date:** Saturday, April 16, 2016 9:36:32 PM

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My name is Megan Hinrichs and my husband and I reside at 14 Champlain Avenue in Lewiston. We have concerns about what we believe is the illegal keeping of chickens at 16 Champlain Ave, residence of Shelly Suzuki. In September 2015, a chicken coop was constructed on the property. Since then, residents in the neighborhood have been kept up at night by Ms. Suzuki's chickens. In a neighborhood that is comprised of mostly retired individuals and young families with children, it is very concerning to my husband and I that nothing has been done regarding removing the chickens from this property. The chicken coop is the backyard of the property against a fence and is visible from Surry Lane.

Thank You

Megan Hinrichs  
207 344-3117

**From:** [CoachTiner@aol.com](mailto:CoachTiner@aol.com)  
**To:** [David Hediger](#)  
**Subject:** Proposal on Chickens.  
**Date:** Saturday, April 16, 2016 11:28:42 AM

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Hello David,

I am a resident of Lewiston and live on Champlain Ave. I am currently vacationing in Florida. I have heard recently of a push in favor of letting people have chickens in their back yards. I don't feel that Champlain Ave. is a place to allow such a thing. I believe allowing chickens would lower our property value in the future. My wife and I can't be convinced that a family looking for a new home would say "Wow, let's buy a house in this neighborhood, we could have chickens in our back yard." So let it be known, we are not in favor of this proposal or any other proposal involving the expansion of chickens territories.

Sincerely,  
Mike and Sue Tiner  
22 Champlain Ave.  
Lewiston, Me. 04240

To: Lewiston Planning Board

4/25/16

I am writing regarding the proposed petition to amend Article V of the Zoning and Land Use Code and Chapter 14 of the Code of Ordinances to allow for the keeping of six chickens on lots developed with a single family detached dwelling on individual lots.

At this time, I am not able to attend tonight's meeting but have several questions regarding this issue. I realize that some of these are the worst case scenarios but need to be considered. After reading your agenda for this evenings meeting, I would like to ask and propose the following :

1. In reading, it is stated that there has been a growing interest since 2009 to have chickens but I think that might be incorrect because it has not been brought forward again in the last 7 years. It now appears that one resident has brought this forward because upon being notified that this was violation of the Zoning and Land Use Code, staff agreed not to take enforcement action if she pursued an amendment to the code. With the help of the city staff, this is now being proposed.
2. The proposed amendment to Article V, Section 3(aa) of the Zoning and Land Use Code allows for the keeping of up to six chickens in residential zoning districts on lots of no less than 20,000 square feet developed with single family detached dwellings including mobile homes on individual lots. The petitioner's lot would not meet these size requirements as a single individual house lot. Although they do own a lot abutting the property. Therefore, I think clarification needs to be considered, is it a single individual developed house lot of 20,000 not including abutting house lots.
3. I think consideration needs to be given to abutting property owners as well. In looking at the GIS mapping, most of you live in residential neighborhoods but have at least 2 abutting or very close neighbors that would be allowed to have up to 6 chickens should this pass. By very close, I mean either across the street or 2-3 houses away.
  - a. Bruce Damon – 3 abutters
  - b. Michael Marcotte – 2 abutters
  - c. Norm Anctil – 3 abutters
  - d. Sonia Taylor – 2 abutters
  - e. Sandra Marquis – 3 abutters
  - f. Pauline Gudas – 2 very close
  - g. Walter Hill – 3 very close
  - h. Paul Madore – 3 very close
4. Possibly consider an amendment that would allow up to 6 chickens if all abutters were lots of 20,000 as well. There are lots according to the GIS map centered in a highly residential neighborhood that could be allowed if this were to pass.
  - a. That could be a lot of complaint calls to respond to. Are you ready to respond?
5. The purpose of this article is to provide standards for the keeping of domesticated chickens non-commercial basis while creating standards and requirements that ensure that domesticated chickens do not adversely impact the neighborhood surrounding the property on which the chickens are kept.
  - a. Who is going to police and regulate these standards and requirements?

- b. Kevin Roux in his correspondence said that he thought “ most chicken owners would be responsible owners”. Look at the animal shelters, they are full of dogs, cats, bunnies, snakes etc. that thought they had a responsible owner as well.
- 6. Henhouses - Chickens must be kept in a fenced area or enclosure at all times. Enclosures must be clean. dry. and odor-free. kept in neat and sanitary condition. in manner that will not disturb the use of neighboring lots due to noise. odor or other adverse impact. The free ranging of chickens is not allowed. Chickens shall be secured within a henhouse during non-daylight hours. Henhouses are not allowed to be attached or located in any part of dwelling unit. The henhouse shall be enclosed on all sides and shall have roof and doors. The henhouse must be well-maintained. Chickens shall be kept only in the rear or side yard behind the principle structure of the lot developed and must be kept on the property of the owner. Chicken henhouses. fenced areas and enclosures shall not be closer than ten (10) feet to any property line.
  - a. Consider a henhouse in your neighbors side yard ?
  - b. Again, who is going to monitor these conditions ? Who pays the expense to explore each and every complaint that is recorded ?
  - c. If they City doesn't respond to complaints, what are the repercussions?
  - d. Is the City of Lewiston ready and willing to enforce all and any violations ?
- 7. Odors from chickens, chicken manure or other chicken-related substances shall not be perceptible at the property boundaries. Perceptible noise from chickens shall not be loud enough at the property boundaries to disturb persons of reasonable sensitivity.
  - a. These are the complaints that have been received from the neighbors already. Are you willing to have more issues in other residential neighborhoods ?
- 8. The property owner and/or chicken owner shall take all necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites. Chickens found to be infested with insects and parasites that may result in unhealthy conditions to human habitation may be removed by the City through the animal control officer or any other designee and the cost of the same shall be borne by the property owner and/or chicken owner.
  - a. I don't know of any way to keep natural predators and rodents away from a chicken coop other than a very secure fencing system that cannot be chewed through or dug under. Natural predators include as foxes, skunks, racoons and hawks.
    - i. If natural predators are attracted to the henhouses, can and will Animal Control be able to handle the possible onslaught of calls ?
  - b. Rodents can fit into just about any small crack or hole. A mouse can fit through a 6-7 mm hole and a rat through a 20mm hole.
  - c. Rats and mice have always posed a threat to human health. Not only do they spread disease but they also cause serious damage to human food and animal feed as well as to buildings, insulation material and electricity cabling.
- 9. Staff has shared past concerns including public health issues, the burden on code enforcement, the animal control officer, Lewiston Police Department, lot size requirements, and, at that time, the uncertainties to enforcement of the ordinance. Nothing has changed these are still current concerns.
- 10. What about permitting, licensing etc. to be able to inspect, control and/or managed these potential henhouses within the residential neighborhoods ?

- a. Will there be a fee for a permit or license ?
  - b. What would an application involve?
  - c. Will there be inspections of the facilities to verify correct application of the rules? And, if so, what are the consequences of violations?
  - d. How often does the permit need to be renewed?
11. The public health hazards potentially associate with raising urban chickens can be outweigh by any and all benefits.
- a. Salmonella and Campylobacter are common public health hazards potentially associated with chicken contact. These bacteria are carried by healthy chickens and are communicable to people through direct contact or exposure to manure.
  - b. Histoplasmosis can cause a respiratory disease with cough and shortness of breath. The fungal organism causing this disease can be concentrated in areas with quantities of bird droppings. Persons acquire the disease by inhalation of the organism from the environment. Therefore, it is critical that flock owners have a method to maintain the property to minimize the accumulation of bird droppings. Animal waste should be disposed of in a safe manner.
  - c. How and where would droppings be disposed of ?

I think all of the above need to be seriously considered before allowing an amendment to Article V of the Zoning and Land Use Code and Chapter 14 of the Code of Ordinances. I thank you for your time and exploration of the above facts, questions and thoughts.

Cathy McDonald  
40 Ware Street, Lewiston, Me 04240

We, the undersigned residents of Lewiston, age 18 or older, oppose the amendment proposed to change existing ordinances pertaining to the keeping of chickens:

Signature	Printed Name	Street Address	Date
<i>Michael Adams</i>	Michael Adams	17 Bonnaille Ave	4-16-16
<i>Patricia S Adams</i>	Patricia Adams	17 Bonnaille Ave	4-16-16
<i>Claudette Champagne</i>	CLAUDETTE CHAMPAGNE	19 BONNAILLE	4-16-16
<i>Robert Leveque</i>	Robert Leveque	21 Bonnaille	4-16-16
<i>Kimberly Doucet</i>	Kimberly Doucet	27 Bonnaille Ave	4/16/16
<i>Roger Dupre</i>	Roger Dupre	26 Rachel Blvd	4/16/16
<i>Betty Howe</i>	Betty A Howe	28 Champlain Ave	4-16-16
<i>Ronald C Howe</i>	RONALD C HOWE	26 CHAMPLAIN AVE	4/16/16
<i>Frances Wataru</i>	FRANCES WATARU	25 Champlain Ave	4/16/16
<i>Kyle Harichs</i>	Kyle Harichs	14 Champlain Ave	4/16/16
<i>Doris Drapeau</i>	DORIS DRAPEAU	6 Champlain	4/16
<i>Roger Drapeau</i>	ROGER DRAPEAU	11	4/16
<del><i>[Signature]</i></del>			
<i>Bethany Earle</i>	Bethany Earle	3 McArthur Ave	4/18/16
<i>Bryan Earle</i>	Bryan Earle	3 McArthur Ave	4/18/16
<i>Lloyd E. Willey Jr.</i>	Lloyd E. Willey Jr.	23 Bonnaille Ave	4/18/16
<i>Jennifer Willey</i>	Jennifer Willey	23 Bonnaille Ave	4/18/16
<i>Anne Leveque</i>	Anne Leveque	21 Bonnaille Ave	4-19-16
<i>Marc Fournier</i>	MARC FOURNIER	25 Buttonwood Ln	4-22-16
<i>Jean Fournier</i>	Jean Fournier	25 Buttonwood Ln	4-22-16
<i>Rita Ashton</i>	Rita Ashton	50 Delcliffe Lane	4-24

We, the undersigned residents of Lewiston, age 18 or older, oppose the amendment proposed to change existing ordinances pertaining to the keeping of chickens:

Signature	Printed Name	Street Address	Date
	Rose Pelletier	245 Montello St.	4/19/16
	RICHARD PELLETIER	245 MONTELLO ST	4/19/16
	Scot N MacKenzie	105 Gagne St	4/19/16
	Elaine Asselin	3 Novella St.	4-20-16
	June Roux	25 Manning Ave	4/20/16
	Gina Dick	31 Jenkins St	4/21/16
	Debra Leaman	42 Stepper Rd	4-21-16
	Tanya Mailhot	20 Victor St.	4-21-16
	Marjorie Lachance	9 Mickaue Ave	4-21-16
	Jennifer Nadeau	20 Coburn St	4-21-16
	Karen Hobson	25 Rita Ave	4-21-16
	Rebecca Ingraham	15 Beacon St	4-22-16
	Jamie Strachan	21 Owen St.	4-22-16
	CATHERINE THEBERGE	126 Old Webster Rd.	4-22-16
	Monique Hucy	67 Rachel Blvd	4-23-16
	DIANE DESJARDINS	5 NOVELLA ST	4/23/16
	Michael Asselin	3 NOVELLA ST	4/23/16
	ERNESTINA ACOSTA	272 LEWISTON ST	4/24/16
	ROQUIZA REBOREAU	179 Firmin St	4/25/16
	Dore Boyle	5 Bristley Circle	4-25-16
	Melissa Howe	116 King Ave	4/25/16



# LEWISTON CITY COUNCIL

## MEETING OF MAY 3, 2016

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 7**

**SUBJECT:**

Public Hearing and First Passage regarding an amendment to the Animal and Animal Control ordinance allowing animals in city parks and fields during approved Special Events.

**INFORMATION:**

City Administration is recommending an amendment to the Animal Ordinance to allow, on a case by case basis, animals in certain city parks, fields and other properties, if approved in advance by City Administration and in conjunction with an approved Special Event that is being held at the location. Passage is requested.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*EAB/Kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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That the proposed amendment to the City Code of Ordinances, Chapter 14 "Animals", receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the next regularly scheduled City Council meeting.



The Office of  
Deputy City Administrator  
Phil Nadeau  
**MEMORANDUM**

TO: Mayor and City Council  
FR: Phil Nadeau  
CC:  
RE: Animal Ordinance Changes for Special Events  
DT: 5.3.16

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The 3<sup>rd</sup> Annual Great Falls Brewfest has secured the Greater Androscoggin Human Society as a possible Bronze sponsor for its very successful event to be held this year on June 25, 2016

The sponsorship will require GAHS to set up a vendor exhibit that will feature a “puppy pen” to display some adoptable animals. This is certainly a great idea and will be supervised in a controlled 25 square foot pen area (possibly 2 areas) with display tables for GAHS information.

The only difficulty is the existing wording in some sections of our ordinance which address domestic animals in our city and athletic parks.

A simple fix to the problem will be to authorize the City Administrator to issue exemptions limited to specific events on specific dates. Each event will be required to do any number of things depending on the event. The proposed language is contained in Section 14-38 and Section 14-39

In the GAHS case, the event will be authorized only for June 25, 2016 and only during the hours of 9AM to 6PM (allows for set up and clean up). They will also be required to have supervision with no more than two penned areas of up to 25 square feet; no less than two people per pen area; be required to meet all applicable state and federal animal control laws; and not allow any animal outside of the penned area. The event will be insured, and all vendors participating in the event will be covered under the insurance coverage.

Other events may have other needs and will receive that same individual attention as all special events do since they are all different in some way.

I also recommend that we add the words “special events” to Section 14-29 covering livestock in public places. That should cover any event which might potentially fall under this section.

## RECOMMENDED CITY ORDINANCE CHANGES

Phil Nadeau – 4.26.16

### Sec. 14-38. Sixteen-foot leash requirements and exceptions.

Only domestic animals are authorized on all city-owned public ways, sidewalks, and all publicly owned property within the city. Any such animal shall be on a leash or other tether, in the control of an individual, of not more than 16 feet in length with the following exceptions:

- (1) Any domestic animal in the aforementioned public areas must be on a leash or other tether of not more than eight feet in length when signs are posted stating "Maximum Eight-Foot Leash is Required" by the city to accommodate mass gatherings or public events. The authority to post such areas shall lie with the city council.
- (2) All domestic animals may only be present during the specified hours between 6:00 a.m. to 8:30 a.m. and 6:00 p.m. and 8:30 p.m. at the following public facilities:
  - a. Montello Track (far right-hand side of the track field closest to the woods and farthest away from the playground).
  - b. Sunny Side Park (field area).
  - c. Simard-Payne Police Memorial Park (area farthest away from the planned playground and closest to the river).
- (3) The City Administrator or his/her designee may authorize exceptions to this Section for city approved events. Such exceptions must specify the conditions under which the animal(s) shall be supervised; the time of day and specific dates that they will be authorized to be on the property; and any other conditions that may be applicable to the event and to the city property involved.

(Ord. No. 01-7, 5-31-01; Ord. No. 08-09, 1-1-09)

## DIVISION 2. CITY PROPERTY

### Sec. 14-39. Parks, cemeteries, playgrounds and athletic fields.

The City Administrator or his/her designee is authorized to issue exceptions to the following items in this Section for city approved events. Such exceptions must specify the conditions under which the animal(s) shall be supervised; the time of day and specific dates that the animals will be authorized to be on the property; and any other conditions that may be applicable to the event and to the city property involved.

- (a) Domestic animals will not be permitted in the following parks and athletic fields for the period commencing one-half hour prior to and for the duration of any city or school ANIMALS Lewiston Code Chapter 14 CH 14:20 department scheduled or sanctioned activity or event: Holy Family Field, Marcotte Park, Randall Road Softball Complex and Simard-Payne Police Memorial Park.

- (b) Domestic animals may be authorized in all city-owned cemeteries and must be on a leash or other tether, under the control of an individual, of not more than 16 feet in length provided, however, that such animals shall be allowed only on the roadways and walkways of the cemeteries and not on the cemetery lots.
- (c) All domestic animals shall not be permitted in the following public parks and playground areas: Lionel Potvin Park, St. Mary's Playground (Oxford Street), Marcotte Park playground area, Kennedy Park playground area, Knox Street Playground, Mark W. Paradis Park, Pettingill School Park playground area and basketball court, River Valley basketball courts and Sunnyside Park playground area.
- (d) All domestic animals shall not be permitted in the following athletic fields: Franklin Pasture Athletic Complex, Lewiston Athletic Park, Marcotte Park Mutli-use field, Montello Multi-use field, Simard-Payne Police Memorial Park Multi-use field and Upper Franklin field.

(Ord. No. 01- 7, 5-31-01; Ord. No. 08-09, 1-1-09; Ord. No. 13-02b, 3-21-13; Ord. No. 15-06, 7-2-15)

**Sec. 14-29. Other places livestock prohibited.**

It shall be unlawful for any person to ride or allow any type of livestock upon any public school ground, public park or municipal/school grounds within the city other than public rights-of-way or areas designated for such purposes. Provided, however, the provisions of this section shall not apply to the riding or showing of horses or other livestock in conjunction with city authorized parades, carnivals, special events or other school or civic sponsored programs or events which are in compliance with all city, state and federal law, rules and regulations.

(Ord. No. 01-7, 5-31-01)

# LEWISTON CITY COUNCIL

MEETING OF MAY 3, 2016

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 8

**SUBJECT:**

Resolve Approving Final Adjustments to the Fiscal Year 2017 Water, Sewer, Storm Water and Recreation Activities Budgets.

**INFORMATION:**

Prior to final adoption of the utility budgets and recreation activities budget, the Council must review and approve all adjustments to these budgets. Please see attached materials outlining the City Administrator's and Finance Director's recommendations.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The budget adjustments are presented to Council to provide various budget alternatives.

*EAB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To approve the Resolve approving Final Adjustments to the Fiscal Year 2017 Water, Sewer, Storm Water and Recreation Activities Budgets.



**City of Lewiston Maine  
City Council Resolve  
May 3, 2016**

**RESOLVE,** Approving Final Adjustments to the Fiscal Year 2017 Water, Sewer, Stormwater, and Recreation Activities Budgets

**Whereas,** in accordance with the Charter, the City Administrator presented his proposed Fiscal Year 2017 budget to the City Council on March 22, 2016; and

**Whereas,** since then, the City Council has met on numerous occasions to review the various departmental budgets and to discuss changes to the Administrator's proposal; and

**Whereas,** throughout this process, the City Council has shown support for certain changes and adjustments affecting both the revenue and expenditure budgets; and

**Whereas,** the overall goals of this effort were to maintain essential public services while reducing the impact of the budget on the rate payers of the City of Lewiston; and

**Whereas,** the following summary represents the results of this effort;

**Now, therefore, be it Resolved by the City Council of the City of Lewiston that** the following Final Utility and Special Revenue Funds Budget Adjustments Summary for Fiscal Year 2017 is hereby approved:

Division #	Account #	Description	Amount
Water:			
6010	661501	Purchased Power	17,975
6085	640301	Radio Read Tower	85,000
6000	347107	Sewer metered service	(42,500)
6010	662502	Hazmat Contractual Service	1,925
6050	660406	Seminars/Travel	1,000
6070	662270	Repairs to equipment	350
6070	662402	Collection	2,000
6080	660406	Seminars/Travel	3,146
6080	662301	Legal	125

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6080	667502	Dues	1,000
			<hr/>
			<b>70,021</b>
<b>Sewer:</b>			
6210	412000	Overtime	2,661
6250	662509	Contractual Services Other	42,500
6230	661803	No Name Pond Septic	300
6250	412500	Temp Wages	1,532
6250	660406	Seminars/Travel	350
6250	662509	Contractual Services Other	25,000
6270	660406	Seminars/Travel	120
6270	662215	Postage	723
6270	662270	Repairs to equipment	350
6270	662402	Collection	2,000
6280	660406	Seminars/Travel	1,700
6280	662301	Legal	350
			<hr/>
			<b>77,586</b>
<b>Stormwater:</b>			
6410	660406	Seminars/Travel	510
6410	662205	Printing	250
6450	412000	Overtime	1,000
6470	662301	Legal	250
			<hr/>
			<b>2,010</b>
<b>Recreation Activities:</b>			
5318	412500	Temp Wages	<b>(2,750)</b>

**LEWISTON CITY COUNCIL**  
**MEETING OF MAY 3, 2016**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 9**

**SUBJECT:**

Resolve Making an Appropriation for Municipal Budget Year 2017.

**INFORMATION:**

This action is the final phase of the budget adoption for the water, sewer and storm water budgets as well as the Recreation Activities budget, and is an item that needs to be done annually. The attached information defines the Water, Sewer and Storm Water Appropriation as well as that for the Recreation Activities account.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*EAB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To approve the Resolve Making an Appropriation for Municipal Budget Year 2017.



City of Lewiston Maine  
City Council Order  
May 3, 2016

**RESOLVE**, Making an Appropriation for Municipal Budget Year 2017

**Be It Resolved by the City Council of the City of Lewiston** that the Council hereby formally increase City Policy #67 - Sewerage System Use Charges -- as outlined in the following schedule:

**SEWERAGE SYSTEM USE CHARGES** (Effective July 1, ~~2009~~ 2016)

<u>READY-TO-SERVE RATES</u>	
<u>METER SIZE</u>	<u>RATE</u>
5/8"	\$ <del>30.10</del> <u>35.50</u>
3/4"	<del>50.15</del> <u>59.20</u>
1"	<del>88.50</del> <u>104.50</u>
1 1/2"	<del>198.00</del> <u>234.00</u>
2"	<del>354.00</del> <u>418.00</u>
3"	<del>794.00</del> <u>937.00</u>
4"	<del>1,414.00</del> <u>1,669.00</u>
6"	<del>3,181.00</del> <u>3,754.00</u>
8"	<del>5,652.00</del> <u>6,669.00</u>

First 800 cubic feet or part thereof, ~~\$2.12~~ 2.50 per 100 cubic feet.

Over 800 cubic feet at ~~\$3.51~~ 4.15 per 100 cubic feet.

Surcharge for B.O.D. concentration above 250 ppm., ~~21.687~~ 25.590¢ per lb. of B.O.D.

Surcharge for suspended solids concentration above 300 ppm., ~~28.085~~ 33.140¢ per lb. of suspended solids.

NOTE: Additions are underlined, deletions are ~~struck-out~~; and

**Be It Resolved by the City Council of the City of Lewiston** that the appropriation for municipal year 2017 for the following Enterprise Funds is hereby authorized and approved: the Water Fund in the amount of \$5,390,772, the Sewer Fund in the amount of \$5,696,232, and the Stormwater Fund in the amount of \$2,786,331; and

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27 Pine Street Lewiston, Maine 04240 Telephone (207) 513-3017 Fax (207) 784-2959

**Be It Further Resolved by the City Council of the City of Lewiston** that the appropriation for municipal year 2017 for the following Special Revenue Funds is hereby authorized and approved: the Tax Increment Financing Fund in the amount of \$436,762, the Recreation Activity Fund in the amount of \$109,242 and pursuing offering a new wrestling program, and the Police Drug Forfeiture Fund in the amount of \$61,474; and

**Be It Further Resolved by the City Council of the City of Lewiston** that the Council hereby formally appropriates any grants from the State of Maine, the Government of the United States of America, or any other organization received during this budget year where such grant is equal to or less than \$25,000, such appropriation to become effective upon formal Council action to accept such grant.

# LEWISTON CITY COUNCIL

## MEETING OF MAY 3, 2016

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 10**

**SUBJECT:**

Public Hearing on the Adoption of the Resolve regarding the FY2016 Community Development Block Grant Action Plan Budget for submittal to the U.S. Department of Housing and Urban Development.

**INFORMATION:**

During previous Council meetings and workshops, the Council received and considered the recommendations from the CDBG Review Committee regarding the FY16 CDBG budget and Action Plan.

This item is conduct a Public Hearing to receiving citizen input and comment on this proposed Budget. The next agenda item involves adoption of the budget.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*ERAB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To conduct a Public Hearing to receive public comments on the proposed CDBG FY2016 program budget.

# LEWISTON CITY COUNCIL

## MEETING OF MAY 3, 2016

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 11**

**SUBJECT:**

Resolve Approving the Federal FY2016 Community Development Block Grant (CDBG) Action Plan Budget for submittal to the U.S. Department of Housing and Urban Development (HUD).

**INFORMATION:**

During previous Council meetings and workshops, the Council received the recommendation from the CDBG Review Committee regarding the FY16 CDBG budget and Action Plan, and voted to set the public hearing for the May 3, 2016 City Council meeting. HUD requires that final acceptance of this budget take effect a minimum of 45 days prior to the end of the fiscal year. The City Council is requested to take the following action:

- 1) Adopt the schedule of funds for the federal Fiscal Year 2016 CDBG budget as recommended by the Community Development Block Grant Review Committee.
- 2) Authorize the submission of the Action Plan to the Department of Housing and Urban Development.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*E. ABLE*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To adopt the Resolve approving the FY2016 Community Development Block Grant Action Plan Budget for submittal to the U.S. Department of Housing and Urban Development.



**City of Lewiston Maine  
City Council Resolve  
May 3, 2016**



**Resolve,** Approving the Federal FY2016 Community Development Block Grant (CDBG) Action Plan Budget for Submittal to the U.S. Department of Housing and Urban Development (HUD).

Whereas, in accordance with applicable sections of 24 CFR Parts 91 and 570 and the City's Citizen Participation Plan, the City has provided citizens with adequate notice and opportunity to review and comment on its annual Action Plan budget; and

Whereas, the City Council has, on this date, conducted a public hearing and accepted public comments on the proposed Action Plan; and

Whereas, HUD requires that final local acceptance of the CDBG Action Plan budget take effect a minimum of 45 days prior to the end of Lewiston's fiscal year, which occurs on June 30, 2015;

**Now, therefore, be it Resolved by the City Council of the City of Lewiston that**

The attached schedule of funds for the Federal Fiscal Year 2016 (City of Lewiston FY17) CDBG budget (Action Plan) is hereby adopted, and City staff is hereby authorized to submit the FY2016 Action Plan to the U.S. Department of Housing and Urban Development as adopted.

COMMUNITY DEVELOPMENT BLOCK GRANT  
CITY FY 2017 BUDGET

	CFY 2016	SCORES	CFY 2016	CFY 2016	CFY 2017		CFY 2017	CFY 2017
	Amount		Review Com.	City Council	Amount	CDBG CAC	Review Com.	Council
	Requested		Recommend	Approved	Requested	Score	Recommend	Approved
<b>PUBLIC SERVICE AGENCIES</b>								
COL-Social Services-Case Management Program	\$57,000	N/A	\$57,000	\$57,000	\$57,581	N/A	\$57,581	
Tree Street Youth - Afterschool Academic Enrich.	\$20,000	78	\$7,800	\$7,800	\$20,000	87	\$10,440	
Trinity Jubilee Center - Food Pantry	\$9,000	80	\$5,976	\$5,976	\$11,000	84	\$5,544	
Central ME Health Care - Healthy Androscoggin					\$48,668	83	\$24,237	
Tedford housing - Lewiston Supportive Housing	\$8,250	77	\$3,176	\$3,176	\$8,250	83	\$4,109	
Literacy Volunteers - Workplace Literacy	\$5,000	74	\$0	\$0	\$5,000	81	\$2,430	
New Beginnings- Youth Education & Support	\$11,530	75	\$4,324	\$4,324	\$11,530	78	\$4,047	
Safe Voices-Androscoggin Justice Project	\$8,000	76	\$3,040	\$3,040	\$8,000	78	\$2,808	
Veteran's Inc-Increasing Support Services for Vets	\$0		\$0	\$0	\$11,239	77	\$3,894	
Androscoggin Head Start & Childcare	\$18,467	80	\$12,262	\$12,262	\$18,000	76	\$6,156	
Seniors Plus-Living Independently	\$25,000	75	\$9,375	\$9,375	\$25,000	76	\$8,550	
Lewiston Adult Education - Work Readiness	\$21,500	79	\$14,098	\$14,098	\$29,500	75	\$9,956	
Trinity Jubilee Center - Day Shelter & Resource Center	\$22,000	82	\$14,973	\$14,973	\$23,000	75	\$7,763	
Western Maine Community Action - Work for Success	\$0		\$0	\$0	\$31,408	72		
St. Mary's Nutrition Center-Youth Leadership Prog	\$45,000	70	\$0	\$0	\$20,000	69		
Community Concepts, Inc - Bridges out of Poverty	\$12,500	79	\$8,196	\$8,196	\$15,000	65		
Somali Bantu Comm. Assn - Kasheek	\$0		\$0	\$0	\$10,000	52		
Fair Housing				\$0	\$2,000		\$2,000	\$0
<b>SUBTOTAL</b>	<b>\$263,247</b>		<b>\$140,220</b>	<b>\$140,220</b>	<b>\$353,176</b>		<b>\$149,514</b>	<b>\$0</b>
<b>Amount over/under Public Service Agency Cap</b>					<b>(\$199,412)</b>		<b>\$4,250</b>	<b>\$153,764</b>
<b>ADMINISTRATION &amp; PLANNING</b>								
CD Office Administration	\$175,017		\$175,017	\$175,017	\$171,169		\$171,169	\$0
CCI- Bridges Out of Poverty - Planning Grant	\$10,000		\$8,062	\$8,062	\$0		\$0	\$0
<b>SUBTOTAL</b>	<b>\$185,017</b>		<b>\$183,079</b>	<b>\$183,079</b>	<b>\$171,169</b>		<b>\$171,169</b>	<b>\$0</b>
<b>Amount over/under Administration &amp; Planning Cap</b>					<b>\$28,107</b>		<b>\$28,107</b>	<b>\$199,276</b>
<b>HOUSING</b>								
COL-Code Enforcement	\$64,164		\$64,164	\$64,164	\$61,263		\$61,263	
COL- LEAD Match	\$25,000		\$25,000	\$25,000	\$50,000			\$0
COL-Rehab Administration	\$75,688		\$75,688	\$75,688	\$106,541		\$106,541	
CCI-Weatherization Program	\$100,000		\$100,000	\$100,000	\$75,000	83	\$49,800	
<b>SUBTOTAL</b>	<b>\$264,852</b>		<b>\$264,852</b>	<b>\$264,852</b>	<b>\$292,805</b>		<b>\$217,604</b>	<b>\$0</b>
<b>PUBLIC IMPROVEMENTS/INFRASTRUCTURE</b>								
COL-PW Oxford Street Improvements	\$240,000		\$236,874	\$236,874	\$0			
COL-PW Lionel Potvin Park					\$103,000	71	\$75,000	
COL-PW Paradis Park Staircase Installation					\$100,000	74	\$67,093	
COL-PW Shanes Inspiration					\$125,000	80	\$25,000	
Tree Street Youth - Buidling Renovation					\$125,000	87	\$87,000	
<b>SUBTOTAL</b>	<b>\$240,000</b>		<b>\$236,874</b>	<b>\$236,874</b>	<b>\$453,000</b>		<b>\$254,093</b>	<b>\$0</b>
<b>TOTAL OF ALL PROGRAMS</b>				<b>\$825,025</b>	<b>\$1,270,149</b>		<b>\$792,380</b>	<b>\$0</b>
Amount under/over projected allocation:					<b>(\$477,769)</b>		<b>\$0</b>	<b>\$792,380</b>

COMMUNITY DEVELOPMENT BLOCK GRANT  
CITY FY 2017 BUDGET

	CFY 2016	SCORES	CFY 2016	CFY 2016	CFY 2017		CFY 2017	CFY 2017
<b>SOURCES OF FUNDS:</b>								
A. FFY 16 Allocation (est.): \$	\$792,380							
Less Social Services								
Less Enhanced Code Enforcement								
Less Rehab Admin: \$								
Less CD Admin: \$								
<b>Total available for programs:</b>	<b>\$792,380</b>							
<b>B. FY 15 Program Income (FFY14)</b>	<b>\$232,713</b>							
C. FY16 Projected Program Income								
Housing	\$84,000							
Commercial	\$80,000							
ESLP:	\$40,000							
<b>Total FY14 Projected Program Income</b>	<b>\$204,000</b>							
<p><b>*Note: Program Income generated from CDBG Revolving Loan Pools cannot be used to fund other projects. It must be used to recapitalize the loan pools. However, total program income is used when determining the caps set for Administrative Expenses and Public Service Agency funding (CFR 24.200(g)) CFR24.201(e)(1). Program Income generated by the Economic Stimulus Loan Pool (ESLP), administered by the LAEGC is counted as CDBG program income</b></p>								
Caps:								
CD: Administration - (20% of Entitlement \$):			\$158,476					
Public Services -								
15% x (Grant + FY15 Program Income):			\$153,764					
Administration & Planning -								
20% x (Grant + Projected FY16 Program Income):			\$199,276					

# Economic and Community Development

Lincoln Jeffers

Director



**To:** Honorable Mayor and Members of the City Council  
**From:** Lincoln Jeffers  
**RE: CDBG Budget and Action Plan for Federal FY 16**  
**Date:** April 27, 2016

Lewiston will receive \$792,380 in Community Development Block Grant Funds in Federal Fiscal Year 2016, which coincides with Lewiston's FY 17 budget. My April 7<sup>th</sup> memo to the Council on the Draft Budget (attached) provides background on the CDBG program, Consolidated Plan goals, and how it is administered. Federal CDBG requirements specify that the governing body of CDBG Entitlement Communities must submit its budget no later 45 days before the end of its fiscal year. This means Lewiston must submit its Action Plan and budget to HUD by May 15, 2014.

As was noted in my April 7<sup>th</sup> memo, public participation is an important part of the process in determining how each year's allocation of CDBG funds are invested. Lewiston utilizes a 7 member CDBG Citizens Advisory Committee (CAC) to review CDBG funding requests and interview applicants. From this work, the CAC develops recommendations for City Council action on how CDBG funds will best be spent in the coming year to accomplish the goals articulated in the Consolidated Plan.

Working to address the goals established in the 2015-2019 Consolidated Plan, the CAC reviewed and scored funding applications as to how well the request:

- Supports the 5 year Consolidated Plan goals
- Meets a critical unmet need in the community
- Is within the applicants capacity to carry out
- Is cost effective

Attached is the draft budget for use of CDBG Funds for the program year that starts July 1, 2016.

Public notice inviting comment was given, and the Action Plan has been posted on the City's web site since March 31<sup>st</sup>. The draft CDBG budget was presented to the council in a workshop on April 12<sup>th</sup>. To date, no public comments have been received other than those made at the council meeting. The public comment period ends May 2<sup>nd</sup>.

Following is a summary of the CAC's recommendations:

1. Funding for **Social Service Agencies** is capped by HUD regulations at 15% of the combined total of the new grant allocation plus the prior year's program income. This year's cap is \$153,764. Historically, Lewiston has funded approximately 5% below the cap to insure program requirements are met. The CAC recommends funding 13 social service agencies as detailed on the budget sheet for a combined total of \$149,514, which is 2.8% below the cap. The process for determining which agencies CAC recommended for funding is detailed in my April 7<sup>th</sup> memo. Included in this category is \$57,581 for Lewiston's General Assistance office (GA), which, per HUD rules, must be funded under the agency category.
2. **Administration and Planning** is capped at 20% of the combined total of the new grant allocation plus projected program income for the year. This year's cap is \$199,276. The CAC recommended level of funding is \$171,169, which will be used for salaries, supplies, legal, public notice advertising, and other operational expense requirements.
3. **Housing** – Lewiston has one code enforcement position dedicated to the CDBG Target Area who works with property owners and tenants to improve the quality of the housing stock. This position is recommended for \$61,263 in funding. In recent past years, Code's efforts were largely focused on bringing buildings into code compliance as well as identifying uninhabitable buildings and taking them through the condemnation process to demolition. Over the last year, the focus has shifted to identifying buildings that can be brought back into productive use and working with existing or new owners to achieve that goal.

The City has a variety of residential loan programs that are capitalized with CDBG funding. Administration of these programs, which includes marketing, loan underwriting, developing construction specifications, inspections, and regulatory compliance are considered Rehabilitation Administration, which is recommended for \$106,541 in funding. The increase from the current year funding of \$75,688 is attributable to a larger portion of the Community Development Coordinator's salary shifting from the lead grant to housing rehabilitation, where the majority of her time is now spent. Rehabilitation Administration also funds portions of other community development department staff salaries, office operational expenses, and project fees paid to Community Concepts for rehabilitation construction management.

Community Concepts is the recipient of federal and other grant funding that are used to weatherize homes for low income homeowners. Those funding sources do not allow investing weatherization dollars in a property if it has a leaky roof or significant electrical, plumbing, or other code issues. CAC is recommending a \$49,800 allocation for fixing those

elements of low income homeowner rehab projects that cannot be funded with weatherization dollars.

4. **Infrastructure** – As the draft CDBG budget was being developed, several infrastructure projects were considered by CAC. Funding is recommended at \$75,000 to replace playground equipment at Lionel Potvin Park; \$67,093 to install a concrete stairway to replace a heavily used and eroded trail from Pierce Street down into Mark W. Paradis Park; \$25,000 to help fund site work at Shane’s Inspiration, a handicap accessible playground; and \$87,000 to Tree Street Youth to assist with redevelopment of their facility.

The City Council is being asked to adopt a budget and action plan that will direct how the coming Federal FY 2016 CDBG allocation will be spent beginning July 1, 2016; and to authorize the City Administrator to submit the same to the U.S. Department of Housing and Urban Development.

# Economic and Community Development

Lincoln Jeffers

Director



**To:** Honorable Mayor and Members of the City Council  
**From:** Lincoln Jeffers  
**RE: Proposed CDBG Budget and Action Plan**  
**Date:** April 7, 2016

Lewiston is a Community Development Block Grant (CDBG) Entitlement Community and received a Federal grant each year which is to be spent to benefit low to moderate income residents. As with the municipal budget, the City Council decides how CDBG funds are invested each year. However, as a Federal grant, there are regulations and processes which must be abided by in coming to that decision. Following is more detail on CDBG and the process for how those funds are to be spent.

## Background

The CDBG program was created in 1974 to help states and communities combat poverty and assist in the development of viable urban communities. It is administered by the Department of Housing and Urban Development (HUD). The overarching goals of the program are to help provide the following, principally for persons of low and moderate income:

- Decent housing
- A suitable living environment
- Expanded economic opportunities

To achieve these goals, CDBG regulations set forth eligible activities and the national objectives that each activity must meet. As a recipient of CDBG funds, Lewiston is charged with ensuring that these requirements are met.

Lewiston has been a CDBG Entitlement Community since 1974. Entitlement Communities annually receive a funding allocation directly from HUD based on a formula established by Congress. Other communities in Maine designated as Entitlement Communities are Portland, Bangor, Auburn, Biddeford, and Cumberland County. The State of Maine also receives a funding allocation that is distributed by the state to other non-entitlement communities on a competitive, per project basis each year.

The bulk of Lewiston's CDBG funds are invested in or to the benefit of the residents of a Target Area, Census Tracts 201 -204 (map attached). Historically, the city has used its funds primarily on housing improvements, economic development, infrastructure improvements in the Target Area, and social services. So long as the broad national goals of the program are met there is considerable flexibility in how the funds are spent.

Over the last 7 years Lewiston's allocation has shrunk 24%, from \$1,040,235 in FY 2010 to \$792,380 in FY 2017. Over the last several years funding has hovered around \$780,000 annually. It is noteworthy that the FTY 2017 allocation is approximately 2% higher than the FY 2016 allocation of \$777,025.

### **Planning and Goals**

As an Entitlement Community, Lewiston must meet significant administrative and reporting requirements from HUD. Among those requirements is developing and adopting a 5 year strategic plan, known as the *Consolidated Plan*, which outlines how CDBG funds will be utilized over the term of the plan.

Public participation is an essential component of the development of a Consolidated Plan as well as in determining how CDBG funds should be spent each year. Beginning in the fall of 2014 Lewiston's 7 member CDBG Citizen Advisory Committee (CAC), along with staff and consultant, held six public meetings and numerous interviews with stakeholder groups to identify the most critical eligible needs to which Lewiston's CDBG funds should be targeted. Those discussions informed development of the 2015 -2019 Consolidated Plan. To very briefly summarize, the Plan has 4 high priority, 3 medium priority and 1 low priority goals. They are:

#### High Priority

- A. Support people in their efforts to transition out of poverty
- B. Prevent homelessness
- C. Improve the safety and energy efficiency of the housing stock
- D. Reduce lead hazards in housing

#### Medium Priority

- A. Increase neighborhood pride through investment in infrastructure
- B. Promote jobs and economic growth
- C. Create more stable and diverse mixed income neighborhoods

#### Low Priority

- A. Support Fair Housing and increase housing choice.

The full Consolidated Plan can be viewed on the city's web site at <http://www.lewistonmaine.gov/DocumentCenter/View/151> .

The 2015 -2019 Consolidated Plan was approved and adopted last year by the City Council; and HUD has determined the plan complies with federal regulations

### **Citizen Advisory Committee FY 2017 Funding Recommendations**

In December 2015 the City issued a Notice of Funding Availability and invited social service providers and others to submit requests for CDBG funds. The CAC goes through an exhaustive review of the applications and interviews those with new programs or ones about which they have questions. The CAC then scores those applications based on how well each application meets the following criteria:

- a) Supports the 5 Year Strategic Plan and its goals (can score up to 35 points)
- b) Meets a critical unmet need (can score up to 35 points)
- c) Is within the applicants capacity to carry out (can score up to 20 points)
- d) Is cost effective (can score up to 10 points)

The majority of the CAC's time is spent evaluating the agency and public infrastructure requests. The scoring process has evolved and been fine-tuned by the CAC over the last few years to improve its objectivity. The integrity of the process has been maintained in each funding cycle, with improvements identified implemented in the following budget year.

Attached is the budget showing the CAC's recommendations for the city's CDBG spending in FY 2017. The City received 18 social service agency applications requesting \$353,176 in funding. CAC recommends investing \$149,514 on fourteen social service agencies/programs including \$57,581 to fund one full time position with benefits in Lewiston's General Assistance Office, as well as \$2,000 in funding to support Fair Housing education and programs in order to meet HUD requirements. Lewiston's GA office provides front line assistance to help very low income residents meet their most basic needs, meeting the national objectives of providing decent housing and a suitable living environment.

The CAC developed their funding recommendations for the other 12 agencies based on the following formulas:

For those agencies that scored 81 or above:

***Amount requested X score expressed as a % X 60%***

For those agencies that scored 75 -78:

***Amount requested X score expressed as a % X 45%***

HUD calculates the 15% social service agency cap on the annual allocation plus the prior year's program income. The program income is estimated, and, accordingly, staff does not recommend funding all the way up to the cap. If loan repayments are less than projected the cap could be exceeded, which would cause compliance and possible repayment issues with HUD. The recommended level of funding is 2.8% below the cap.

### **Administration**

HUD regulations have a 20% cap on CD Office Administration and Planning. The recommended budget includes \$171,169 to fund staff salaries and costs of operation for the Community Development office; which is 14% (\$28,107) below the HUD cap. It should be noted that Economic and Community Development Department staff salaries and benefits are paid from a variety of federal grants or TIF agreements and do not affect the General Fund.

### **Housing**

CDBG has been funding a Code Enforcement position dedicated to the target area since FY 2012. The position has played an essential role in identifying and recommending properties to be demolished, working with landlords to improve the quality of the housing stock, and addressing resident concerns. The CAC recommends continuing to fund the position at a cost of \$61,263.

Also recommended for funding is \$106,541 for administration of the city's rehabilitation loan programs. This funding is used for salaries, benefits and office supplies for the staff that promote, intake, and underwrite loans, document and process disbursements for those loans, and report to HUD. The significant increase over last year in this budget line is attributable to 70% of the primary staff person's salary being paid from this source in FY 2017, when only 38% of their salary was paid from this source in the prior year. Rehab Administration also funds construction management services provided by Community Concepts (CCI) for rehabilitation projects. They work with city code enforcement to identify issues in buildings, then write the scope of services for improvements to be made, manage the bidding process, and ride herd during construction.

CCI runs a weatherization program that helps low/moderate income residents weatherize their homes. The CAC recommends \$49,800 be allocated to this program which provides grants to very low income individuals for replacement of roofs, upgrading of electrical systems, or other improvements that must be made to leverage and allow weatherization grant funding to be invested in these owner occupied properties. This program benefits Lewiston's most needy homeowners, many of who are elderly.

### **Infrastructure**

CDBG regulations allow funding of public infrastructure improvements that will improve the quality of life of residents in the target area. Five applications for funding were received and four were recommended for funding, all at levels below the requested amounts. The three Public Works submitted applications recommended for funding include \$67,093 for installation of stairs from Pierce Street down into Paradis Park; \$75,000 for installation of new equipment at Lionel Potvin Park, and \$25,000 for site work at a new handicap accessible playground to be built at Marcotte Park.

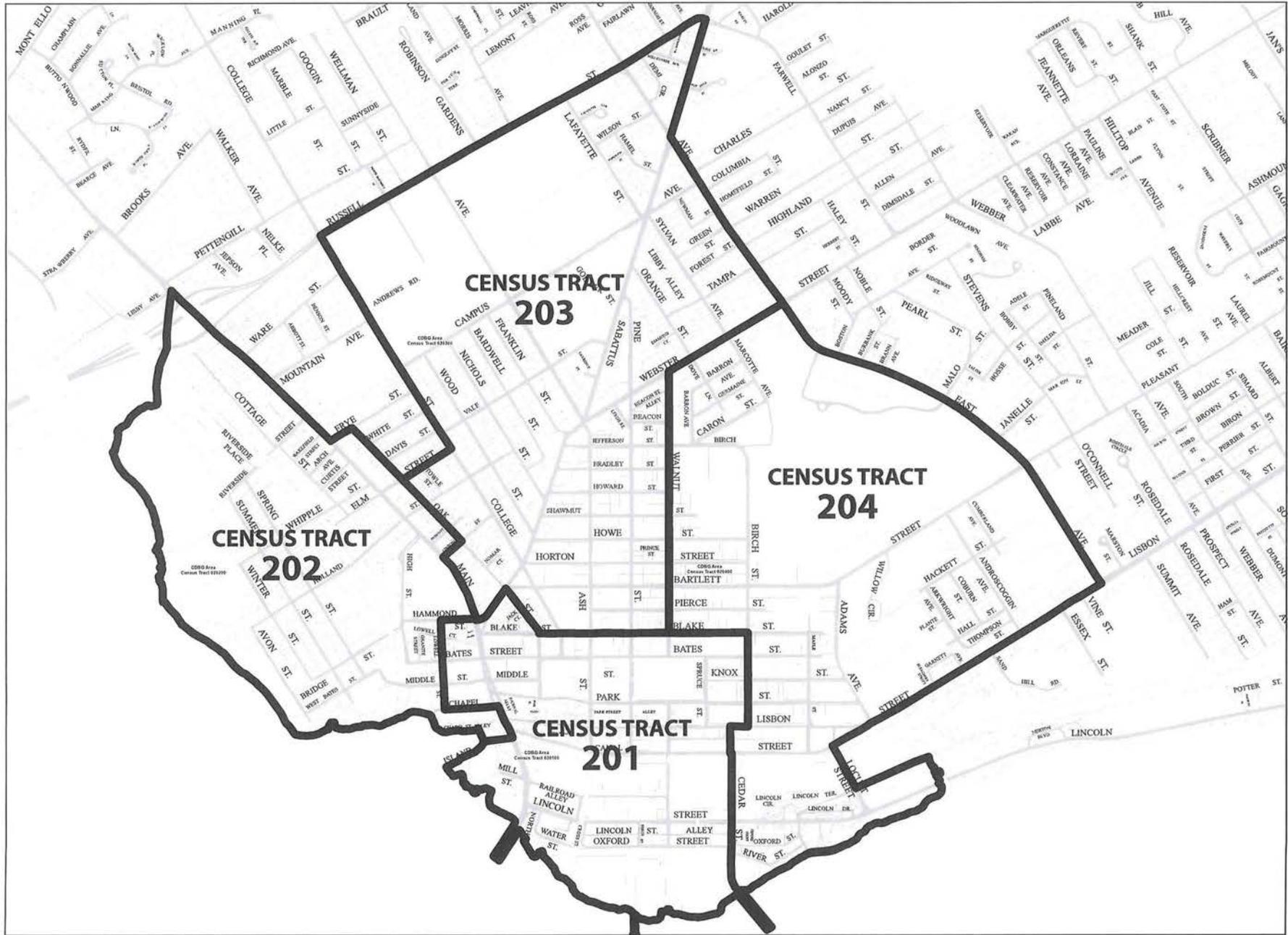
CAC had originally recommended fully funding Shane's Inspiration, but reduced the recommended amount because construction may not occur in FY 17 and HUD discourages money being allocated but unspent. A capital campaign is underway to raise \$787,000 to build Shane's Inspiration. As that effort gains momentum the CAC would like to see a request for additional CDBG funding.

Also recommended for funding is \$87,000 to Tree Street Youth toward their building capital campaign. Funds will be used to demolish a structurally unsound and unused portion of their facility. After demolition the land will be repurposed for outdoor recreation uses.

### **Conclusion**

The CAC takes considerable time and care in developing their recommendations for the City Council. Their deliberations are always engaged and spirited with many viewpoints expressed. Their challenge is significant. This year, the total funding requests were 160% of the funds available. Agency requests were 230% of the funds available. The CAC's goal is to make recommendations to invest these scarce dollars in ways that will provide the most benefit to the city and its low to moderate income residents, following the guidelines of the *Consolidated Plan*.

While the CAC makes recommendations, the final decision on how CDBG dollars are invested is the City Council's.



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**CDBG  
Target Area**

Scale: 1" = 100'

**Lewiston  
Maine**

**LEWISTON CITY COUNCIL**  
**MEETING OF MAY 3, 2016**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 12**

**SUBJECT:**

Resolve Waiving various local fees otherwise applicable to construction of a New Elementary School in Franklin Pasture.

**INFORMATION:**

The School Department is currently in the process of planning for construction of a new elementary school to be located in Franklin Pasture. Construction of this school has been approved by the State Department of Education, which will pay the vast majority of construction costs. The state will not, however, pay for any local costs associated with required planning and building permits and approvals.

In the past, the City has waived all required local fees for construction of the Farwell and Geiger Schools under similar circumstances where the state was paying the costs.

The School Committee has requested a similar waiver for this project.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*EAB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To approve the Resolve waiving various local fees otherwise applicable to construction of a New Elementary School in Franklin Pasture.



CITY OF LEWISTON, MAINE

May 3, 2016

COUNCIL RESOLVE

**Resolve,** Waiving Various Local Fees Otherwise Applicable to Construction of a New Elementary School in Franklin Pasture.

Whereas, the Lewiston School Department has received state approval to construct a new elementary school on property in Franklin Pasture; and

Whereas, the majority of costs associated with this school will be paid by the State of Maine; and

Whereas, under state policy, the state will not reimburse the School Department for any locally required building permit fees; and

Whereas, the School Committee has adopted a motion directing the School Superintendent to seek a waiver from locally required Planning Board, Building, Electrical, and Plumbing fees; and

Whereas, the City has waived such fees in the past for the construction of the Farwell and Geiger Schools;

**Now, therefore, be it resolved by the City Council of the City of Lewiston that**

All locally required and retained fees related to the construction of a new elementary school to be located in Franklin Pasture are hereby waived with the exception of the costs associated with a peer review of the project's traffic study and the required sewer impact fee.

April 6, 2016

To: Lewiston School Committee

From: Bill Webster, Superintendent

Re: Request for Waiver from Local Permitting Costs for New Elementary School

A construction project in Lewiston would typically be required to obtain and pay for the following fees (The dollar estimates are based upon the new elementary school budget.):

- Planning Board fee (\$3,000)
- Building permit fee (\$50,000)

We have learned from the Department of Education that such costs are not reimbursable by the state as they reason that the State should not be paying for these costs that are established locally. Such costs must either be waived locally (as was the case for Geiger Elementary School) or be absorbed as a local cost by the construction project. [There are also other fees that will be picked up by the contractors, and these are not listed here because they are reimbursable.]

The motion that I am asking the School Committee to consider is as follows:

**Move to direct the Superintendent to seek a waiver from the City of Lewiston for the Planning Board fee and building permit fee that will be associated with the new elementary school project.**

**LEWISTON CITY COUNCIL**  
**MEETING OF MAY 3, 2016**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 13**

**SUBJECT:**

Order taking possession of Tax Acquired Property at 117 Webster Street.

**INFORMATION:**

This is a vacant parcel of land. Tax liens on the property have matured and, in spite of collection efforts, remain unpaid. At this time, the balances due to the City include \$3,789 in real estate taxes .

Given the matured tax liens, the attached order would authorize the City to take possession of the property.

Given its size and location, the City has no need to retain ownership of this parcel. As a result, staff recommends that it be sold. To do so, a recommendation must first be sought from the Planning Board. This order also includes a request to the Board for such a recommendation. Finally, it also authorizes staff to take steps to dispose of the property, subject to a positive recommendation from the Board.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*EAB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
---	---	---	---	---	---	---	---

To approve the Order taking possession of Tax Acquired Property at 117 Webster Street.



COUNCIL ORDER

**Order,** Taking Possession of Tax Acquired Property at 117 Webster Street.

Whereas, the property located at 117 Webster Street is a vacant parcel on which the City is owed \$3,789 in back taxes; and

Whereas, a tax lien has matured on this property; and

Whereas, the City has repeatedly notified the property owner of this delinquency and has met all legal requirements to validate the lien; and

Whereas, taking possession of this property will potentially allow the City to recover at least a portion of what it is owed and to proceed to return this property to productive use; and

Whereas, once the City has taken possession, the City Administrator recommends that it be offered for sale through competitive bid;

**Now, therefore, be it Ordered by the City Council of the City of Lewiston** that, based on a matured tax lien, the City take formal possession of the property located at 117 Webster Street.

**Be it Further Ordered** that, subject to a positive recommendation from the Planning Board, this property be offered for sale through the competitive bid process.



1:1200



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# LEWISTON CITY COUNCIL

## MEETING OF MAY 3, 2016

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 14**

**SUBJECT:**

Resolve Ratifying the conclusion of the City Clerk that the Application to circulate petitions for an Initiative or Referendum regarding Agreement with Brookfield White Pine of Canada for Acquisition or Exchange of Canal is not a permissible subject for a citizen initiative referendum and, therefore, that the City Clerk cannot issue a proper petition.

**INFORMATION:**

On April 15, a resident initiated the citizen petition process calling for a citizen referendum regarding the agreement with Brookfield White Pine of Canada for acquisition or exchange of canal. The City's Elections Ordinance outlines the citizen initiative process and requires that ten registered voters sign a petition application to start the process. As of April 27, ten voters have signed the application yet the City Clerk has determined that, under the City's Elections Ordinance, this topic is not a permitted topic for a citizen petition. The City Attorney has been consulted on this and on other past situations, and his opinions, which concur with the City Clerk's determination, are attached.

This agenda item is asking the Council to ratify the finding of the City Clerk. If the Council concurs, the application would be denied and the petition could not be issued.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*EAB/Kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To approve the Resolve ratifying the conclusion of the City Clerk that the Application to circulate petitions for an Initiative or Referendum regarding Agreement with Brookfield White Pine of Canada for Acquisition or Exchange of Canal is not a permissible subject for a citizen initiative referendum and, therefore, that the City Clerk cannot issue a proper petition.



COUNCIL RESOLVE

**Resolve,** Ratifying the Conclusion of the City Clerk that the Application to Circulate Petitions for an Initiative or Referendum Regarding Agreement with Brookfield White Pine of Canada for Acquisition or Exchange of Canal is not a Permissible Subject for a Citizen Initiated Referendum And, Therefore, That The City Clerk Cannot Issue a Proper Petition.

Whereas, the City Council had adopted the Riverfront Island Master Plan and that Plan has been incorporated into the City's comprehensive plan; and

Whereas, an element of that plan is a policy indicating that the City should work to acquire ownership of the Lewiston Canal System as an amenity to support development and redevelopment within the riverfront island area; and

Whereas, prior and subsequent to the adoption of this plan, the City has been in negotiations with various owners of the canal system seeking its transfer to the City; and

Whereas, the City Council recently approved a Term Sheet outlining the general terms and conditions under which the current owner would donate the canals to the City; and

Whereas, on April 15, 2016, the City Clerk received the paperwork for initiating an application regarding the City's acquisition of the canal system; and

Whereas, as of April 27, 2016, the signatures of ten qualified voters of the City had been obtained on this application; and

Whereas, the City Attorney has provided an opinion that, under the City's Code of Ordinances § 32-29, and in light of the Maine Supreme Judicial Court's decision in *Friends of Congress Square Park v. City of Portland*, only matters of a legislative nature are subject to referendum and that the subject of this proposed referendum is administrative in nature and that the language of the referendum is unclear; and

Whereas, as a result, the City Clerk has concluded that the subject matter in question is not a permitted one for a referendum under § 32-29 and that she, therefore cannot issue a proper petition under § 32-37 of the Code of Ordinances; and

Whereas, later in the petition process, the City Council has the authority to determine if a referendum petition meets the requirements of the Code Ordinances; the City Clerk, however, has requested that the City Council review her decision and ratify her

conclusion at this juncture rather than requiring the applicants to expend time and energy collecting signatures on an improper petition;

**Now, therefore, be it resolved by the City Council of the City of Lewiston** that

The conclusion of the City Clerk that the Application to Circulate Petitions for an Initiative or Referendum Regarding Agreement with Brookfield White Pine of Canada for Acquisition or Exchange of Canal is not a permissible subject for a citizen initiated referendum under the City's Code of Ordinances § 32-29 and that the City Clerk, therefore, cannot issue a proper petition, is hereby ratified and confirmed.

# APPLICATION TO CIRCULATE PETITIONS FOR INITIATIVE OR REFERENDUM

*as defined in the City Code of Ordinances, Chapter 32 Elections, Article II. Initiative and Referendum*

## ISSUES SUBJECT TO CITIZEN INITIATIVE OR REFERENDUM

Initiatives and referendums are permitted on all ordinances, orders and resolves pertaining to the policing power authority of the council to regulate, govern and enforce all legislative matters on the municipal level regarding the health, safety and welfare of the general public, such as but not limited to zoning, licensing, noise, traffic, solid waste, animals and other related issues. Any resolve dealing with appropriations or orders or resolves dealing with tax levy or budgetary matters shall be subject to this ordinance for the next fiscal year following the successful passage by the voters. No ordinance, order or resolve dealing with terms and conditions of employment for city employees shall be subject to the initiative and referendum provisions contained in this article. (Sec. 32-29)

**Petition Topic/Title:** A Citizen Referendum Regarding Agreement with Brookfield White Pine of Canada for Acquisition or Exchange of Canal.

**Petition Question - use exact wording:** Should the City enter into an Agreement with Brookfield White Pine of Canada for Acquisition or Exchange of the Canal?

Any ten qualified voters of the city may originate a petition putting in operation the initiative or the referendum by signing a petition application at the office of the city clerk (Sec. 32-27). The first and second voter signing this application shall serve as the coordinators/contact people for any questions regarding the petition. Once the signatures of the ten applicants have been verified as registered voters of Lewiston, the City Clerk shall prepare and issue the proper petition forms to the ten voters and upon the request of any registered voter of Lewiston.

SIGNATURE	PRINTED NAME	STREET ADDRESS	PHONE NUMBER	DATE
	Charles A. Soule	135 Courtlett St.	ONLINE WEB FILE @ YAHOO	4/15/2016
	WILLIAM SAMPSON	40 PINECREST LANE	N/A	4-19-16
	Lane Brown	169 College St #3	N/A	4/19/16
	DOUGLAS TAYLOR	291 BATES ST	786-5568	4-19-16
	Patrick Hutchins	22 Wakefield St	207-713-2703	4-20-16
	Heather Peck	22 Wakefield ST	-	4-20-16
	Jonathan Diaz	111 Ash st # 6	-	4-20-16
	Shannon Lynch	272 Sobattos St	207-272-6331	4-21-16
	Philip Upton	762 college St	207-347-0907	4-21-16
	John R. Romeau	6 Pleasant St.	207-689-8208	4-21-16
11.				
12.				

Date application initiated: 4-15-16 Date application ends by ordinance: 4-29-16 (10 working days from issuance)  
 Date application completed: \_\_\_\_\_ Date signatures verified: 4-21-16 Date petitions issued: \_\_\_\_\_

7 out of 10 - OK 1, 3, 4, 6, 7, 8, 10 = valid signatures

# APPLICATION TO CIRCULATE PETITIONS FOR INITIATIVE OR REFERENDUM

*as defined in the City Code of Ordinances, Chapter 32 Elections, Article II. Initiative and Referendum*

## ISSUES SUBJECT TO CITIZEN INITIATIVE OR REFERENDUM

Initiatives and referendums are permitted on all ordinances, orders and resolves pertaining to the policing power authority of the council to regulate, govern and enforce all legislative matters on the municipal level regarding the health, safety and welfare of the general public, such as but not limited to zoning, licensing, noise, traffic, solid waste, animals and other related issues. Any resolve dealing with appropriations or orders or resolves dealing with tax levy or budgetary matters shall be subject to this ordinance for the next fiscal year following the successful passage by the voters. No ordinance, order or resolve dealing with terms and conditions of employment for city employees shall be subject to the initiative and referendum provisions contained in this article. (Sec. 32-29)

**Petition Topic/Title:** A Citizen Referendum Regarding Agreement with Brookfield White Pine of Canada for Acquisition or Exchange of Canal.

**Petition Question - use exact wording:** Should the City enter into an Agreement with Brookfield White Pine of Canada for Acquisition or Exchange of the Canal?

Any ten qualified voters of the city may originate a petition putting in operation the initiative or the referendum by signing a petition application at the office of the city clerk (Sec. 32-27). The first and second voter signing this application shall serve as the coordinators/contact people for any questions regarding the petition. Once the signatures of the ten applicants have been verified as registered voters of Lewiston, the City Clerk shall prepare and issue the proper petition forms to the ten voters and upon the request of any registered voter of Lewiston.

SIGNATURE	PRINTED NAME	STREET ADDRESS	PHONE NUMBER	DATE
✓ 1. <i>[Signature]</i>	Sheila Taylor	95 College St	782659	4/22/16
✓ 2. <i>[Signature]</i>	Nik Parsons	15 Oak Street	207-20-2169	4-22-16
✓ 3. <i>[Signature]</i>	CRYSTAL VEINOTT	135 BARTLETT ST	207-7131029	4/25/2016
✓ 4. <i>[Signature]</i>	Emman Russell	170 N. Baranwell St	831 236 4047	4/25/2016
✓ 5. <i>[Signature]</i>	Amy Wade	1 Lincoln St	207-32-3065	4/25/16
6. <i>[Signature]</i>				
7.				
8.				
9.				
10.				
11.				
12.				

Date application initiated: \_\_\_\_\_ Date application ends by ordinance: \_\_\_\_\_ (10 working days from issuance)

Date application completed: \_\_\_\_\_ Date signatures verified: 4-25-16 Date petitions issued: \_\_\_\_\_

*3 out of 5 - OK*

*1, 4, 5 = valid signatures*

**Subject:** FW: Petition application - Brookfield - Public Vote

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**From:** Martin I. Eisenstein [mailto:MEisenstein@brannlaw.com]  
**Sent:** Monday, April 18, 2016 9:10 PM  
**To:** Ed Barrett  
**Cc:** Kathy Montejó; Kelly Brooks; Lincoln Jeffers; Anne M. Torregrossa  
**Subject:** RE: Petition application - Brookfield - Public Vote

Ed:  
Here are our answers to your questions below:

1. This likely is not a proper issue for referendum, as it is, on balance, administrative in nature. Indeed, it is similar to the referendum to repeal the vote of the City Council authorizing the purchase of the Oxford Street parcels. City of Lewiston Code of Ordinances § 32-29 permits initiatives and referendums "on all ordinances, orders and resolves pertaining to the policing power authority of the council to regulate, govern and enforce all legislative matters on the municipal level regarding the health, safety and welfare of the general public, such as, but not limited to zoning, licensing, noise, traffic, solid waste, animals and other related issues." It is my opinion that under the plain language requirement as set forth by the Law Court in *Friends of Congress Square Park v. City of Portland*, 91 A.3d 601 (ME 2014), the subject matter is not legislative but relate to administrative matters.

First of all the vote does not seek to "declare(s) [a] public purpose and provide(s) ways and means to accomplish that purpose." Id. at 606. The City Council has already approved the Riverfront Island Master Plan, which contains as a key element the acquisition of the canals by the City. Moreover, it simply seeks an answer to the question whether the City should enter into an agreement with Brookfield to acquire the canals, which is specific purchase as opposed to the declaration of broad policies.

Second, another indication of legislative matters is if the subject of the referendum involves making laws of general applicability and permanent nature, as opposed to decisions implementing such general rules, which are administrative. Id; see also 5 Eugene McQuillin, *The Law of Municipal Corporations* § 16:54 (3d ed.1978). As McQuillen explains, if the initiative is to make a new law, it is legislative, but if it implements existing policy, it is more likely administrative. This is a case of implementation of existing policy.

Another factor considered by the Court was whether the action "compels or bars action by elected officials that would seriously hamper governmental functions. See 5 Eugene McQuillin, *The Law of Municipal Corporations* § 16:53; see also 62 C.J.S. *Municipal Corporations* § 386 (2014) (stating that initiative powers "should not be so interpreted as to destroy or impair the efficacy of some other governmental power.")" It is unclear whether the referendum would hamper the efficient operation of the government, but may well do so given the long process involved in negotiating the many issues involved in acquiring the canals.

On balance, the issue is more administrative than legislative and therefore not a proper subject for referendum.

2. I also am concerned about the language of the referendum. It is unclear whether the proponent seeks action regarding a proposed or actual resolution of the City Council or simply is a declaration of what the proponent would hope the City Council will do in the future. In order to put the referendum in a form suitable for signature, even assuming that the subject is a proper one for referendum, the City Clerk would have to revise the question so it provides a clear indication of what citizens are asked to sign and ultimately vote on. Such an exercise in this case is well beyond the proper role of the City Clerk, who should not be in a position of reading the mind of the proponent.
3. This should have no effect on the actual vote scheduled for tomorrow night.

Martin I. Eisenstein | BRANN & ISAACSON  
184 Main Street, Lewiston, ME 04243-3070  
Tel: 207.786.3566 x 111 | Cell: 207.212.9123 | Email:  
[meisenstein@brannlaw.com](mailto:meisenstein@brannlaw.com)

-----Original Message-----

From: Ed Barrett [<mailto:EBarrett@lewistonmaine.gov>]  
Sent: Friday, April 15, 2016 1:23 PM  
To: Martin I. Eisenstein  
Cc: Kathy Montejo; Kelly Brooks; Lincoln Jeffers  
Subject: FW: Petition application - Brookfield - Public Vote

Marty:

Please see the attached petition re: the canals. On a quick review, it looks like this is a separate initiative, not a referendum aimed at any action of the Council. In addition, the Council will not be taking action until next week.

First, is this a suitable issue for a referendum? Second, even if it is, would the form it is in result in a binding referendum or only an advisory? Third, it would seem that this action would have no effect on the Council proceeding to approve the items next Tuesday and, potentially, concluding a full agreement with Brookfield that would be binding regardless of the outcome of the vote?

I'd appreciate your thoughts/opinion.

Thanks,  
Ed



*LEGAL DEPARTMENT*



**MEMORANDUM**

**TO:** Kathy Montejo  
**COPY:** Ed Barrett, Phil Nadeau  
**FROM:** Martin Eisenstein, Anne Torregrossa  
**DATE:** August 14, 2015  
**RE:** Petition to repeal the City Council's order approving the purchase of 2 and 26 Oxford Street

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On August 11, 2015, the City Council passed an order (the "Order") approving the City's purchase of 2 and 26 Oxford Street, Lewiston and authorizing the City Administrator to execute a purchase and sale agreement with the owner, who has already signed the agreement. One of the purposes of the purchase, as stated in the Order, is to develop the properties "as surface parking at a significantly lower cost than decked parking, supporting expansion of the tax base." A second purpose is that the properties are identified on the City's Riverfront Island Master Plan as prime property suitable for mixed use development, and the City's purchase would ensure that the properties would be available for such development when the market demand warrants construction. Prior to the City Council's decision, the Planning Board had voted to recommend against the purchase. This was done pursuant to the City Ordinances that require the Planning Board to review and make a recommendation regarding all proposed capital expenditures of \$100,000 or more and all acquisitions of land.

On August 12, a citizen filed an application to circulate a petition to hold a referendum to revoke the Order. The referendum reads:

Shall the Order, Approving the City's purchase of 2 and 26 Oxford Street, Lewiston and Authorizing the City Administrator to Execute the Purchase and Sale Agreement and other Documents Necessary to Effect the Transaction be repealed?

You have inquired, through the City Administrator, whether this is an appropriate topic for referendum.

City of Lewiston Code of Ordinances § 32-29 provides that:

Initiatives and referendums are permitted on all ordinances, orders and resolves **pertaining to the policing power authority of the council to regulate, govern and enforce all legislative matters on the municipal level** regarding the health, safety and welfare of the general public, **such as, but not limited to zoning, licensing, noise, traffic, solid waste, animals and other related issues.** . . . No ordinance, order or resolve dealing with terms and conditions of employment for city employees shall be subject to the initiative and referendum provisions contained in this article.

(emphasis added). A matter is appropriate for referendum only if it falls within the scope of this ordinance.

### **Only Matters of a Legislative Nature are Subject to Referendum**

The leading case on the initiative/referendum process is *Friends of Congress Square Park v. City of Portland*, 91 A.3d 601 (ME 2014), which clarified the law in this area. In that case, the Law Court explained that a matter may be submitted to the voters if the ordinance at issue permits the subject of the petition to be submitted for vote by the citizens. The decision, according to the Court, is based upon an interpretation of “the plain language” of the municipality’s ordinance; i.e. an examination of the “plain meaning” of the law. *Id.* at 604. Turning to the plain language of Portland’s ordinance, the Court contrasted an initiative/referendum ordinance that had been proposed for Portland, which would have broadly authorized review of “all municipal affairs,” with the ordinance that was actually adopted, which limited review to only “legislative matters.” *Id.* at 604. The Law Court then distinguished between legislative matters – which were the proper subject of the initiative/referendum process under the plain language of Portland’s more narrowly drawn ordinance – and “administrative matters – which were not subject to the process under the more narrow language but would have been subject to referendum under the broader ordinance that was initially proposed. Because the City of Lewiston ordinance is limited to legislative matters, similar to the Portland ordinance interpreted in the *Friends of Congress Square* case, it is appropriate to apply the Court’s opinion so as to exclude administrative matters from being proper subjects for referendum in Lewiston.

### **The Subject of the Proposed Referendum is Administrative in Nature**

The question remaining, therefore, is whether the Council’s vote adopting the Order was legislative – and therefore subject to referendum – or administrative. The Law Court, for the first time, took the opportunity in the *Friends of Congress Square Park* case to attempt to draw a distinction between the legislative and administrative functions of a municipal body.

The Court began the analysis by adopting “the generally accepted definition of “legislative power” as the “power to make laws and to alter them.” *Id.* at 605, *quoting*, Black’s Law Dictionary 983 (9th ed.2009). However, the Court recognized that there is no bright line separating legislative from administrative functions, but there were various factors to review to assist in drawing such a distinction. *Id.* at 605-06. One factor indicating legislative “power to make laws and to alter

them” is whether the ordinance “declare(s) [a] public purpose and provide(s) ways and means to accomplish that purpose.” *Id.* at 606 (alterations in brackets in original). Conversely, acts implementing such general rules are administrative in nature. *Id.*; *see also* 5 Eugene McQuillin, *The Law of Municipal Corporations* § 16:54 (3d ed.1978) (if the initiative is to make a new law, it is legislative, but if it implements existing policy, it is more likely administrative). Another factor is whether the act in question is discretionary; acts that are discretionary in nature are likely legislative. *Id.* at 605. The Law Court implied that whether a matter is discretionary is influenced by whether the government has exclusive power in that area (as opposed to the private sector) and whether those powers have been delegated by the City Council. *Id.* at 606. A third indication that an act is legislative is if it involves making laws of general applicability and permanent nature, as opposed to decisions based on individualized, fact-specific considerations, or those that are temporary in operation or effect. *Id.* at 605, n.7, 606. The last factor considered by the Court is whether the proposed initiative or referendum “compels or bars action by elected officials that would seriously hamper governmental functions.” *Id.* at 607, *quoting* 5 Eugene McQuillin, § 16:53. The Court also instructed that initiative/referendum powers “should not be so interpreted as to destroy or impair the efficacy of some other governmental power.” *Id.*, *citing* 62 C.J.S. *Municipal Corporations* § 386 (2014).

In applying the factors set forth in the *Friends of Congress Square* decision, we find, on balance, that the subject of the petition—the Order authorizing the purchase of land—is an administrative matter. First, the Order does not declare or modify a public purpose; instead, it simply implements existing policy to create parking to spur development, as well as to provide for mixed development use along the riverfront. By ordinance, the City has provided for a process to approve capital expenditures, the very example of an administrative or proprietary decision. That process has been followed in this case.<sup>1</sup> Second, whether the Order is discretionary is unclear. On the one hand, the City’s power to purchase properties has not been delegated, and, on the other hand, purchase of land is not an exclusive activity of the City of Lewiston. Thus, this was not the City acting in its regulatory role, such as when the City adopts zoning ordinances, which is solely within its power, as opposed to when it operates in a proprietary capacity, such as when the City buys products or other services that other organizations, companies and individuals can purchase. Third, the Order was not an ordinance of general applicability; it was an item-specific decision to buy two parcels of land that simply happened to come up for sale. Finally, the proposed referendum would interfere with the efficient administration of the government. A purchase and sale agreement has already been signed by the seller, and awaits the signature of the City Administrator. Holding off on consummating the purchase could adversely affect the efficient administration of the City’s affairs, including obtaining parking in the most cost-efficient manner.

We note that the subject matter of the Order does not fit within the examples of legislative matters cited in the ordinance (zoning, licensing, noise, traffic, solid waste, animals and other related issues). Although this is not the primary basis for our opinion, as the quoted examples are not exclusive, the examples do illustrate the nature of the matters envisioned to be legislative and

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<sup>1</sup> Although the Planning Board’s recommendation was not adopted, the City Council considered its views but decided that, to implement existing policies of providing parking, with the possible long term use of the property as mixed development, the most efficient way is to purchase the land on Oxford Street. That may or not be the best decision, but it certainly is a decision made not in order to set public policy, but to provide for the efficient implementation of the policy.

provide some guidance in interpreting the ordinance. The purchase of land is not similar in nature to the examples given.<sup>2</sup>

In conclusion, although the determination of what is a legislative matter is not as clear cut a decision as other matters, it is our responsibility to construe the ordinance based on the guidance from other decisions. In that light, we are of the opinion that the Order is administrative in nature and the proposed petition is not an appropriate matter for referendum.

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<sup>2</sup> We note that the last sentence of Code of Ordinances § 32-29 does specifically exclude employment decisions from initiative/referendum. However, that specific carve-out is not the only matter excluded from referendum. If the intent in adopting § 32-29 had been to exclude only those items specifically identified, then the ordinance would have stated in effect that all matters, except those specified, are subject to referendum. As the Law Court stated in a similar analysis of the Portland ordinance, the adoption of the term “legislative matters” must be read as a limitation on the scope of the initiative/referendum power, lest the Court ignore the basic statutory principle that all words in a statute be given effect.



# City of Lewiston, Maine

## Department of City Clerk

Kathleen M. Montejo, MMC  
City Clerk & Registrar of Voters

Kelly J. Brooks, CMC  
Deputy City Clerk



April 29, 2016

Charles Soule  
135 Bartlett Street  
Lewiston, ME 04240

Dear Charles,

We have received ten signatures on the petition application you submitted for a referendum regarding the agreement with Brookfield White Pine of Canada for acquisition or exchange of the canal.

Under Section 32-27 of the City of Lewiston Ordinances, I, as the City Clerk, prepare a "proper petition with a copy of the order" to be voted on for you to gather signatures. The City Attorney has advised in a legal opinion dated April 18, 2016 (copy attached), that the referendum question you have proposed is not authorized under Section 32-29 of the Lewiston Ordinances because it addresses an administrative, rather than legislative, matter. Based on that opinion, I am of the view and belief I cannot prepare a "proper petition" because the Ordinance does not permit a referendum on the subject of the application.

Rather than reject it out of hand, however, I have requested that the City Council consider and decide at its meeting of May 3, 2016 whether the proposed petition is permissible under Section 32-29 of the Ordinances. The City Council has the authority under Section 32-31 to make that determination later in the process, once sufficient signatures are gathered on the petition. A determination now by the City Council will save the applicants and citizens the expense of gathering signatures if the Council decides that the subject of the petition is not appropriate for referendum once the signatures have been obtained. On the other hand, if the City Council determines that the proposed referendum properly addresses a legislative matter, then I will issue the petition and you can proceed with confidence that the petition will be placed before the voters if sufficient signatures are obtained.

Please let me know if you have any questions regarding this issue.

Sincerely,

Kathleen M. Montejo, City Clerk